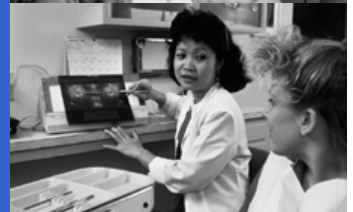
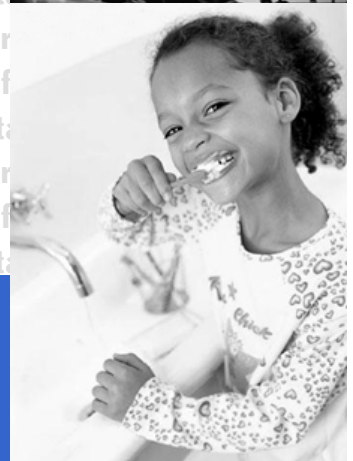


# Dental Board of California

## Third Report of the Enforcement Monitor

NewPoint Group<sup>®</sup>  
Management Consultants

August 22, 2003



August 22, 2003

Ms. Kathleen Hamilton, Director  
California Department of Consumer Affairs  
400 R Street, Suite 3000  
Sacramento, California 95814

**Third Report of the Enforcement Program Monitor for the Dental Board of California**

Dear Ms. Hamilton,

We are pleased to present this third report on the Dental Board's Enforcement Program. The report is intended to serve several purposes. First, it provides a summary of the current status of the Enforcement Program in terms numbers of complaints received and closed, backlogs, processing times, referrals for legal action, and other workload, workflow, and performance measures. It also provides a high-level summary of key characteristics of the Dental Board's "Current State" Enforcement Program and an associated ideal "Future State" characterization. Collectively, the Future State characteristics are intended to serve as a Blue Print to guide the Board's improvement planning efforts. Additionally, the report provides a summary of the status of the Board's efforts related to implementing each of the recommendations contained in the Monitor's Initial Report. Finally, the report provides several additional recommendations for improvement.

During the past year, the Dental Board implemented more than one-half of the recommendations contained in the Monitor's Initial Report, and partially implemented a number of others. With fewer staffing resources, the Board increased the number of complaint closures, reduced the number of pending complaints, increased the number of cases referred for legal action, and began to address long-standing concerns about the extended timeframes needed to resolve and investigate complaints. Currently, there are fewer than two dozen managers and staff assigned to the Enforcement Program. They should all be recognized for their accomplishments during this very difficult period.

While the Board's overall FY2002/03 performance is commendable, results for the second half of the year are less encouraging. For example, during the second half of the year there was no significant change in the total number of pending complaints. Management has not developed specific goals or plans to further reduce the number of pending complaints or investigations. For the foreseeable future, Enforcement Program staffing levels are expected to remain static, but could decrease if turnover occurs. Because of these and other factors, performance levels are likely to either remain the same or deteriorate, unless specific actions are taken to achieve a different outcome.

The Dental Board needs to develop performance and service level goals and objectives for the Enforcement Program. It also needs to develop specific plans to further improve Enforcement Program performance and service levels. Finally, progress and performance reporting processes are needed for ongoing oversight and monitoring purposes.

The Dental Board's response to this report is provided in Appendix B. The response discusses actions that the Board plans to take to address some of the recommendations contained in the report.

Thank you for the opportunity to serve as the Department's monitor for the Dental Board's Enforcement Program. If you have any questions or need additional information, please call me at (916) 442-0469.

Very truly yours,  
NewPoint Group®, Inc.



Benjamin M. Frank, Director

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On August 23, 2002, the Dental Board Enforcement Monitor issued the first report required by S.B. 26 (Figueroa). The report contained over 40 specific recommendations for improvements. The Initial Report also included baseline performance metrics for FY2001/02. A supplemental report issued on November 13, 2003, provided a summary of recommendations contained in the Initial Report along with information on the status and impacts of the Board's related implementation efforts. Subsequently, on February 14, 2003, a second report was issued by the Enforcement Monitor. The second report provided updated information on the status of the Dental Board's Enforcement Program and summarized the status of the Board's efforts related to implementing each of the recommendations contained in the Initial Report. The focus of the second report was on changes that had occurred during the first half of FY2002/03.

This report summarizes changes that have occurred since issuance of the Monitor's Initial Report. It also contains results of analyses that were subsequently performed and several additional recommendations for improvement. The report is organized as follows:

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## A. Summary

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During the past year the Dental Board significantly improved its Enforcement Program and began to address long-standing concerns about the extended timeframes needed to resolve or investigate complaints. With fewer staffing resources, the Dental Board:

- Increased the number of complaint closures
- Reduced the backlog of pending complaints
- Decreased the amount of time needed to resolve and investigate complaints
- Increased the number of cases referred for legal action.

The Board fully implemented more than one-half of the recommendations for improvement contained in the Monitor's Initial Report, including many of the *most critical* recommendations, and partially implemented a number of others. Currently, there are fewer than two dozen managers and staff involved in providing Enforcement Program services. They should all be recognized for their accomplishments during this very difficult period.

While the Board's overall FY2002/03 performance is commendable, results for the second half of the year are less encouraging. In comparison to the first half of the year, substantially fewer complaints were closed and there was virtually no net change in the number of pending complaints. While the timeframes needed to resolve or investigate complaints decreased during the second half of the year, this was largely the result of one-time backlog reduction efforts that occurred during the first half of the year. Management has not developed specific plans or goals to further reduce the number of pending complaints or investigations. Enforcement Program staffing levels are expected to remain static for the foreseeable future, but could decrease if turnover occurs. Because of these and other factors, it is unlikely that further improvements in performance will be realized during the current fiscal year unless specific actions are taken to achieve a different outcome.

**Exhibit I**, on the next page, provides a high-level summary of key characteristics of the Dental Board's Current State Enforcement Program. For each Current State characteristic, Exhibit I also provides an associated ideal Future State characterization. In some areas there is a difference, or gap, between the Current State characteristic and the associated Future State characteristic. Collectively, the ideal Future State characteristics are intended to serve as a Blue Print to guide the Board's Enforcement Program improvement planning efforts. A more fully documented *Blue Print for an Improved Enforcement Program* is provided as in Appendix A.

This report identifies specific improvement initiatives that should be undertaken by the Dental Board. As a result of the State's current fiscal circumstances, some of the initiatives may not be able to be implemented for a year or two, or possibly longer. However, many of the initiatives can be implemented now with currently available resources, and preparatory work can be completed for those initiatives that may take longer to fully implement.

As emphasized throughout this report, the Dental Board needs to develop a specific plan to guide its performance improvement efforts (see Recommendation No. III-2). This *Performance Improvement Plan* should address all of the recommendations contained in the Monitor's Initial Report that have not yet been fully implemented. The plan also should incorporate the additional recommendations for improvement included in this report. The Board will need to follow-up with staff to assure that the improvement initiatives are actually implemented in accordance with this plan.

As an example, further reductions are needed in complaint backlogs and the timeframes for complaint reviews and investigations. Complaint investigations should not take a year or longer to complete, as many currently do. The Dental Board should develop a *Service Improvement Plan* for achieving these needed improvements (see Recommendation III-1). As a core component, the *Service Improvement Plan* should provide for a Sacramento Office Enforcement Supervisor position on at least a half-time basis. Given the State's current fiscal circumstances, this plan should not be dependent upon obtaining additional authorized Investigator positions. In the absence of a plan that specifically addresses the Enforcement Program's service improvement needs, it is most likely that service levels will either remain the same or deteriorate, possibly leading to a reversal of the substantial progress that was recently made.

This report contains two recommendations for potential legislative initiatives that the Board should consider. The first involves increasing the potential penalties that can be imposed on first-time offenders that practice dentistry without a license (see Recommendation No. III-5). The second would require that dental societies and state and local government agencies receiving complaints involving the competence or conduct of a dentist disclose to the complainant that the Dental Board is the only authority in the State that can take disciplinary action against the license of a licensee (see Recommendation No. III-7).

## Summary of “Current State” and “Future State” Enforcement Program Characteristics

Business Process		Existing “Current State” Characteristics	Ideal “Future State” Characteristics
Complaint Intake and Review		Complaint processing takes too long (i.e., an average of more than 100 days for complaints that are not referred for inspection or investigation, with nearly 25 percent taking longer than 4 months and more than 10 percent taking longer than 6 months).	Complaints that are not referred for inspection or investigation are closed in an average of less than 75 days. Except in unusual circumstances, complaints that are not referred for inspection or investigation are closed within 180 days. Aging reports are regularly reviewed to identify and expedite the processing of complaints that are approaching or exceed established service level objectives.
		More than 75 percent of complaints are resolved without referral for inspection or investigation.	At least 75 percent of complaints are resolved without referral for inspection or investigation.
		Complaint Unit and Enforcement Program support functions are not adequately supervised or staffed.	An adequate level of supervision is provided for complaint intake, review, and program support functions. A recently abolished program support position is reinstated.
		Outside experts are used to perform many quality of care complaint reviews.	Outside experts continue to be used to perform many quality of care complaint reviews.
		Staff are not sufficiently trained.	Staff training needs are identified and a formal training plan to address these needs is developed and implemented.
Inspections		Staff effectiveness and efficiency, and program service levels, are adversely impacted as a result of having very small numbers of specialized staff in two separate regional offices. Inspection, probation monitoring, and investigative workload is not always able to be optimally balanced between offices and between non-sworn and sworn personnel.	Within each of the Board’s offices, a pool of Investigators performs all investigation, probation monitoring, and inspection work. At least one of the two recently abolished Tustin Office Investigator positions is reinstated to better align aggregate workload demands with staffing resource capabilities.
Investigations		Complaint investigations take too long (e.g., an average of 8.5 months, with more than 25 percent taking longer than a year).	The average timeframe needed to complete complaint investigations is less than 6 months. Except in unusual circumstances, complaint investigations are completed within 12 months.
		Investigator caseloads are too high (e.g., about 40 cases per position), adversely impacting the timeframes needed to complete investigations.	Investigator caseloads do not exceed 35 cases per position, assuming non-sworn staff perform most inspection and probation monitoring functions.
		Investigators close more than 5 complaints per position per month (60 complaints per year). More than 25 percent are legal action closures.	Investigators close at least 5 complaints per position per month (60 complaints per year); assuming non-sworn staff perform most inspection and probation monitoring functions. At least 25 percent are legal action closures.
		There is only limited collaboration with local law enforcement and health service agencies when conducting unlicensed activity investigations in Central and Northern California.	The Board collaborates with local law enforcement and health services agencies in all major metropolitan areas to obtain assistance in investigating complaints involving unlicensed activity.
		Practicing dentistry without a license is a misdemeanor for first-time offenders.	Practicing dentistry without a license is either a felony or a misdemeanor for any offender.
		The Investigation Policies and Procedure Manual is incomplete and out-of-date.	A complete, up-to-date Investigation Policy and Procedures Manual is available for staff training and reference purposes.
		Industry experts do not receive formal training related to the provision of industry expert services.	Orientation training is provided to all industry experts.
		The Board has experienced continuing difficulty in retaining industry experts and in obtaining quality services, particularly with respect to providing court testimony services. This is partially due to the billing rates established by the Board.	Industry expert billing rates are established at a level that reflects their value to the Board and fairly compensates them for time away from their practice.
		Supervisory personnel conduct structured case reviews on a regular basis with their Investigators.	Supervisory personnel conduct structured case reviews on a regular basis with their Investigators.

## Summary of “Current State” and “Future State” Enforcement Program Characteristics

Business Process	Existing “Current State” Characteristics	Ideal “Future State” Characteristics
Legal Actions and Remedies	Legal action case processing takes too long (i.e., at least one to two years in many instances). A major contributing factor is the extended lead time needed to calendar a hearing.	Legal action cases are processed within standard timeframes established by the AGO (assignment to an attorney within 5 days; filing of accusation within 60 days; return of stipulated agreement within 180 days; return of decision within 270 days).
	There is no effective method for projecting or monitoring AGO and OAH workload and expenditures.	AGO and OAH workload and associated expenditures are accurately projected and continuously monitored.
	The Board’s Disciplinary Guidelines are incomplete and out-of-date.	Updated Disciplinary Guidelines are adopted by the Board.
	Information regarding self-referred Diversion Program participants is not always available to Dental Board staff who may be handling a subsequent complaint involving the same subject.	Information regarding self-referred Diversion Program participants is available to staff who may need it.
Communications	The Board does not have a written policy governing disclosure of complaint information. In response to a draft memorandum released by the Department of Consumer Affairs over one year ago, the Board recently requested that the AGO prepare a background paper regarding complaint information disclosure	A fully documented, up-to-date written policy governing disclosure of complaint information is available for staff training, reference, and public information purposes.
	The procedures used to prepare closing letters are somewhat cumbersome and inefficient. Also, the closing letters are not always as well written as they could be, leading to higher levels of dissatisfaction with Enforcement Program services than might otherwise exist.	High quality closing letters are efficiently prepared largely utilizing standard paragraphs developed for this purpose. Model closing letters are used for staff training and reference purposes.
Program Administration	In some areas, statistical data available from the Board’s Complaint Tracking System is incomplete or incorrect.	Accurate and complete statistical data is routinely produced from the Board’s complaint tracking system.
	Enforcement Program workload and performance data are not periodically recapped in a format suitable for executive-level review purposes.	Enforcement Program workload and performance data is periodically recapped in a format suitable for executive-level review purposes.
	Customer satisfaction surveys are disseminated along with complaint closing letters, but some key questions are not included.	An enhanced survey is used to continuously track the level of customer satisfaction with Enforcement Program services.
	Formal appraisals of Enforcement Program staff performance have not been completed for many years.	Formal performance appraisals for all Enforcement Program staff are prepared on an annual basis.
	The Enforcement Program Supervisor’s Manual is incomplete and out-of-date.	A complete, up-to-date Supervisor’s Manual is available for staff training and reference purposes.
Community Outreach and Education	The Enforcement Program has little, if any, presence in local communities. Coordinated activity between the Board and local law enforcement and health services agencies is limited. Staff do not initiate, or participate in, many activities that could help to detect or prevent unlicensed activity.	As a result of staff participation in a variety of community events, print and radio advertising, and other activities, there is a meaningful Enforcement Program presence in higher risk communities throughout the State. Additional staffing resources and expenditure authority are authorized to enable provision of these services.
	The Board does not generally plan and prepare for coverage by the media of its investigations, such as the arrest of an individual engaged in unlicensed activity.	The Board routinely plans and prepares for media events to generate positive publicity about the Enforcement Program.



Two other recommendations included in this report involve the Dental Board's Diversion Program and a customer satisfaction survey that Board staff recently developed. With respect to the Diversion Program, the Board should seek advice and assistance from the Department of Consumer Affairs in obtaining outside resources to help with its planned audit of participant files (see Recommendation No. III-3). With regard to the customer satisfaction survey, the survey instrument should be modified to capture key performance metrics such as the level of complainant satisfaction with the timeliness of the Board's processing of complaints (see Recommendation No. III-6).

Finally, the current monitoring process has helped to improve Enforcement Program performance. The Joint Legislative Sunset Review Committee and the Department of Consumer Affairs should continue to monitor the Dental Board's Enforcement Program until desired performance and service level goals and objectives are fully achieved. The Dental Board should be required to periodically produce a public report that summarizes key performance measures and provides other information that would be useful for this purpose (see Recommendation No. III-4).

## **B. Organization and Staffing**

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Since issuance of the Enforcement Monitor's Initial Report one year ago, there have been several positive developments involving the Dental Board's organizational structure and staffing, including the following:

- The Dental Board filled its vacant Executive Officer and Assistant Executive Officer positions. These appointments provided the Board with a fully staffed management team for the first time in more than a year.
- Exemptions were obtained from the hiring freeze to enable the Board to convert two limited-term peace officer appointments to a permanent status basis. Had these exemptions not been obtained, both incumbents were at risk of losing their peace officer status at the end of CY2003.
- Legislation was introduced by Senator Figueroa (S.B. 362) that would repeal current statutes limiting the number of permanent peace officer appointments that can be made to the Dental Board. If enacted, and if recently abolished Investigator positions are reinstated or additional Investigator positions are authorized in the future, the Board would not be restricted by statute from filling the positions with sworn peace officers on a permanent status basis.

If enacted, S.B. 362 also would repeal current statutes requiring that the Board conduct a \$75,000 study of the potential use of non-sworn Investigators to replace some of the Board's peace officers. At the time this issue first surfaced in the mid-1990s, the Dental Board had 17 sworn peace officers. Investigator position reclassifications and eliminations since that time have precluded the need for this study. The Board's current complement of peace officers consists of only 10 positions, including the Chief of Enforcement and Tustin Office Enforcement Supervisor.



Several other changes also have been made involving the organization and staffing of the Dental Board's Enforcement Program. As shown by [Exhibit II](#), on the next page, one year ago authorized staffing for the Enforcement Program consisted of 30 positions, of which 27 were filled. Authorized staffing for the Enforcement Program currently consists of 23 positions, all of which are filled. During the past year:

- 4 vacant Investigator positions were abolished
- 1 Dental Consultant position assigned to the Sacramento Office was abolished after the incumbent retired from State service
- 1 Office Assistant position was abolished after the incumbent separated from State service
- 1 Staff Services Manager I position was internally redirected to support the Examination Program.

Also, a Staff Services Analyst position that was previously assigned to the Enforcement Program was redirected to a newly created Special Licensing Unit. However, most of this position's workload involved Licensing Program activities. The workload previously performed by the Dental Consultant was redirected to a Sacramento-based retired annuitant and to outside experts. The workload previously performed by the Office Assistant was redistributed among other Enforcement Program support staff.

As a result of these changes, there has been a significant decrease in the proportion of total authorized positions that are allocated to the Enforcement Program. Currently, about 54 percent of the Board's authorized positions are allocated to the Enforcement Program. Previously, about 62 percent of the Board's authorized positions were allocated to the Enforcement Program.

Complaint Unit staff previously reported to the Sacramento Office Enforcement Supervisor (SSM I). Currently, Complaint Unit staff report directly to the Chief of Enforcement who has limited time available to closely supervise the Unit. Some support is provided by the Assistant Executive Officer, such as responding to some particularly difficult complainants. However, this arrangement is not a substitute for the loss of the full-time Sacramento Office Enforcement Supervisor position that was redirected to address the Board's Examination Program workload demands.

As discussed subsequently, even with these diminished staffing capabilities, the Board was able to achieve remarkable improvements in Enforcement Program performance during the past year. Additional Investigator positions would help the Board to reduce existing complaint backlogs to desired levels, particularly in the Tustin Office. Reducing the backlog of pending investigations would, in turn, help to enable further reductions in the timeframes needed to complete complaint investigations.

The Dental Board, in cooperation with the Department of Consumer Affairs, can submit appeals to the Department of Finance for reinstatement of positions that were recently abolished. However, it is unclear what, if any, urgent or compelling arguments the Dental Board will be able to offer to support such an appeal for reinstatement of abolished Investigator positions. During the second half of FY2002/03 there was no increase in the Board's backlog of pending investigations, the Board's Investigators worked little or no overtime, and there was a significant decrease in the average timeframe needed to investigate complaints. Additionally, current Investigator caseloads are only about 20 percent higher than desired levels (equivalent to an aggregate total of about 50 to 75 cases).

### Enforcement Program Staffing

Location and Position Classification	Allocated Positions		Comments
	July 2002	July 2003	
Sacramento Office			
Enforcement Supervisor II	1	1	Statewide Chief of Enforcement
Staff Services Manager I	1	0	Internally redirected – Examinations
Dental Consultant	1	0	Incumbent retired – Position abolished
Senior Investigator	4	3	1 vacant position abolished
Inspector	2	2	
Associate Govt. Program Analyst	2	2	
Consumer Services Analyst	3	3	
Staff Services Analyst	-	-	Not included <sup>1</sup>
Consumer Assistance Technician	1	1	
Office Technician	1	1	
Office Assistant	1	0	Incumbent separated – Position abolished
Total	17	13	
Tustin Office			
Supervising Investigator I	1	1	Office Supervisor
Dental Consultant	1	1	
Senior Investigator	4	4	
Investigator	4	1	3 vacant positions abolished
Inspector	2	2	
Office Technician	1	1	
Total	13	10	
Statewide Totals	30	23	

<sup>1</sup> This position was redirected from the Enforcement Program to a newly created Special Licensing Unit. Most of the position's workload involved Licensing Program activities.

Further reductions in complaint backlogs and the timeframes needed to complete complaint investigations are, however, needed. Complaint investigations should not take a year or longer to complete, as many currently do. Given the current budget environment, an alternative improvement strategy should be developed that is not dependent upon obtaining additional authorized Investigator positions. In the absence of an improvement strategy that specifically addresses needs in these areas, it is most likely that performance levels will either remain the same or deteriorate, possibly leading to a reversal of the substantial progress that has already been made. It is critical that the Complaint Unit in Sacramento be more closely supervised. Day-to-day complaint handling and related management issues need to be resolved by somebody other than the Chief of Enforcement, who also has significant responsibilities for the Board's inspection, investigation, probation monitoring, and legal action activities.

**Recommendation III-1:** Board staff should develop an Enforcement Program Service Improvement Plan. The Service Improvement Plan should define performance and service level goals and objectives for each major component of the Enforcement Program, and identify specific improvement initiatives that will be undertaken to achieve these goals and objectives. As a core component, the Service Improvement Plan should provide for a Sacramento Office Enforcement Supervisor on at least a half-time basis. An accompanying time-phased implementation schedule also should be provided.

## C. Program Management

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During FY2002/03 substantial progress was made in addressing many of the recommendations contained in the Monitor's Initial Report. Of the 43 recommendations contained in the Initial Report, 25 have been fully implemented. [Exhibit III](#), on the next page, provides a brief summary of each of the recommendations that the Dental Board has fully implemented. Among these are included:

- Development of an initial Enforcement Program Improvement Plan.
- Assignment of the Sacramento Office Inspectors to the Chief of Enforcement.
- Approval of hiring freeze exemption requests to enable two limited-term peace officers to be appointed to their positions on a permanent status basis.
- Implementation of measures to reduce the number of complaints referred to investigation and to streamline investigative processes for certain types of cases.
- Conduct of structured case reviews with Investigators on a regular basis.
- Designation of individuals in each region to oversee and supervise probation monitoring activities.
- Development and implementation of a timekeeping application for Investigators.
- Award of a new Diversion Program contract that offers a range of treatment options as needed to address individual participant needs and circumstances.
- Development of a more collaborative working relationship with Department of Consumer Affairs Budget Office staff to support preparation of more accurate expenditure projections, and increased oversight of fiscal management processes by the Board's new Executive Officer.

The Dental Board also has partially implemented 10 other recommendations that were made in the Monitor's Initial Report. [Exhibit IV](#), following Exhibit III, provides a brief summary of each of the recommendations for improvement that have been partially implemented. Among these are included:

- Development of an initial set of elapsed time objectives for the handling of complaints by the Complaint Unit. Service level objectives need to be established for the inspection and investigation processes and the initial objectives established for the Complaint Unit should be revised to reflect current goals and objectives for the Enforcement Program.
- Submission of a Budget Change Proposal (BCP) to the Department of Consumer Affairs to increase industry expert pay rates.

## Summary of Recommendations That Have Been Fully Implemented

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### Program Management

**Improvement Planning.** An initial plan was prepared for implementing the recommendations for improvement contained in the Enforcement Monitor's Initial Report.

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### Complaint Intake and Review

**Complaint Unit Policies and Procedures.** The Complaint Unit Procedures Manual was updated.

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### Inspections

**Sacramento Office Inspector Supervision.** The Sacramento Office Inspectors began reporting to the Chief of Enforcement during August 2002.

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### Investigations

**Hiring Freeze Exemptions.** Exemption requests were submitted to the Department of Consumer Affairs on July 18, 2002, to (1) fill vacant Investigator positions, and (2) convert limited-term peace officer appointments to a permanent status. Approval was received to convert two limited-term peace officer appointments to a permanent status. Requests for exemptions to fill four vacant Investigator positions were withdrawn after the positions were abolished.

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**Contingency Planning.** A plan was developed to help address imbalances between ongoing investigative workload demands and current staffing capabilities. The plan has two major components:

- It provides for referral of fraud complaints to other public agencies
- It provides for the addition of four new violations to the Board's Cite & Fine Table.

The Cite & Fine Table additions will enable the Board, on a permissive basis, to utilize a citation and associated orders to resolve a complaint in lieu of a more labor intensive and costly accusation process. For example, in the case of group of abandonment complaints against a licensee who is no longer practicing in California, the citation process could be used to recover patient records in lieu of completing a formal investigation of each individual complaint. Failure by the licensee to comply with the citation can be used as a basis for an accusation, and suspension or revocation of a license (if warranted).

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**Contracting for Peace Officer Services.** No further analyses have been performed.

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**Case Reviews.** Standard formats were developed for conducting and documenting completed case reviews. Also, supervisory responsibilities for completing case reviews were defined and implemented.

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**Industry Expert Pool.** The Dental Board's pool of experts was enlarged which has helped to reduce the time needed to obtain expert services.

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**Malpractice and Denti-Cal Cases.** The Board's policies and procedures were changed to require obtaining malpractice case records, wherever appropriate. Malpractice and Denti-Cal cases are now handled the same way as all other complaints are handled. This includes evaluation of aged B&P 800-805 cases, and referral of malpractice cases to investigation, when appropriate.

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**Multiple Complaint Case Investigations.** A new policy was implemented which requires that Investigators refer multiple complaint cases to the AGO as soon as they are sufficiently complete to support an appropriate disciplinary action, and not hold cases pending investigation of all related complaints.

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**Purging "Without Merit" Cases.** The Chief of Enforcement determined that the Board's current case file retention practices should be continued. "With Merit" case files are retained for five years. "Without Merit" case files are retained for one year as a contingency in the event that the complainant requests that the case be re-opened. Retaining "Without Merit" cases for longer than one year, for reference in connection with subsequent complaints against the same licensee, would not be beneficial because the complaints have already been reviewed and determined to be "Without Merit".

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**Case Priority Coding.** The Chief of Enforcement determined that the Board's case coding system has an imbedded simplified coding structure whereby the first digit of the two-digit code signifies the priority of the complaint, and the second digit signifies the type of violation. The assigned priority also is used when setting up associated color-coded case file jackets that are used to facilitate staff identification of high priority cases. A new case priority coding system is not needed.

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## Summary of Recommendations That Have Been Fully Implemented

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### Legal Actions and Remedies

**Northern California Laboratory Contract.** It was determined that the Northern California laboratory contract allows for collection of biological test samples from probationers in the same manner as is currently done in the Southern California region. Northern California Investigators were reminded that they can direct probationers to provide samples at a laboratory in lieu of collecting the samples themselves.

**Probation Monitoring.** A new PC-based tracking system was implemented to standardize the tracking of probationers, statewide. Also, a review of all probation cases was completed. Additionally, one person in each region was designated to oversee and supervise probation monitoring activities. In Northern California the designated individual is the Chief of Enforcement. In Southern California the designated individual is the Tustin Office Enforcement Supervisor. Finally, the duty statement of the Sacramento-based Probation Coordinator was revised to be consistent with the types of duties actually performed.

**Single Incident Simple Negligence Cases.** No alternative strategies for successfully resolving cases involving single acts of simple negligence were identified. Board staff attempt to obtain corrective treatment or a refund to the consumer, where appropriate. The Board issues the licensee a notification of its findings and retains the case file in the event that subsequent negligent acts occur that might provide a basis for pursuing formal disciplinary action. Complainants also may be referred to small claims courts or a local dental society peer review program.

**Board Disciplinary Actions.** An analysis of Board disciplinary actions was completed by the Enforcement Monitor. Results of the analysis did not support claims of bias in connection with the Board's decisions.

**Probation Policies and Procedures.** The Probation Manual has been updated.

**Diversion and Probation Program Drug Testing.** Where appropriate, drug testing for the Diversion and Probation Programs has been consolidated.

**Diversion Program Treatment Options.** A new contract was awarded that offers a range of treatment options as needed to address individual participant needs and circumstances.

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### Communications

None.

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### Program Administration

**Financial Management.** The Board's Budget Officer regularly meets with DCA Fiscal Office staff to develop updated expenditure projections. The Board's new Executive Officer is exercising a greater level of control over the Board's fiscal management processes.

**Investigator Timekeeping Application.** A Microsoft Access timekeeping application for Investigators was implemented. The application is designed primarily to capture data that can be used for cost recovery purposes. It captures information regarding the amount of time spent on each cases, but does not provide a full accounting of each Investigator's total time at work. The application has some utility for purposes of monitoring Investigator utilization and performance, but would have limited utility for purposes of determining Investigator staffing requirements.

**Staff Training.** Enforcement Program support staff have been cross-trained as needed to sustain delivery of mission critical services when extended absences or turnover occur.

**Denti-Cal Complaint Counts.** The Chief of Enforcement decided not to modify the current process. The approved process was formally documented.

**Complaints Alleging Unsatisfactory Service by the Board.** A new procedure was implemented to retain documentation related to complaints about the Board's services.

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### Community Outreach and Education

None.

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## Summary of Recommendations That Have Been Partially Implemented

### Program Management

**Service Level Objectives.** An initial set of elapsed time objectives was established for the handling of complaints by the Complaint Unit. Service level objectives need to be established for the inspection and investigation processes. The initial objectives established for the Complaint Unit need to be expanded to include a timeframe objective for completion of consultant reviews and overall processing timeframe objectives for both closed and referred complaints. They also should be revised to reflect current goals and objectives for the Enforcement Program.

### Complaint Intake and Review

None.

### Inspections

None.

### Investigations

**Industry Expert Program Guidelines.** A guidebook for the Industry Expert Program was developed. Improved processes are needed for monitoring and controlling the amount of calendar time they spend reviewing and reporting on cases.

**Industry Expert Compensation.** A Budget Change Proposal was submitted to the Department of Consumer Affairs that requests higher rates of industry expert pay, particularly when testimony is required.

### Legal Actions and Remedies

**Legal Action Case Tracking and Aging.** A personal computer-based application was developed to assist in tracking pending legal action cases. The application does not support production of performance measures such as case processing timeframes by major step in the process or average age of open or closed cases.

### Communications

**Complaint Disclosures.** The Dental Board has requested that the Attorney General's Office prepare a background paper for the Board on the subject of complaint disclosures. A fully documented, written policy governing disclosure of complaint-related information is needed.

### Program Administration

**Complaint Tracking System.** Modifications were made to the Dental Board's complaint tracking system which improved the quality of statistical information. Additional system modifications are needed.

**Legislative Initiatives.** Legislation was introduced (S.B. 362) by the Chair of the Joint Legislative Sunset Review Committee (Senator Figueroa) that would extend operation of the Board from July 1, 2004, to July 1, 2008. S.B. 362 also would (1) repeal restrictions on the number of permanent peace officer appointments that can be made to the Board, and (2) repeal statutory requirements for performance of an analysis of the potential use of non-sworn Investigators to replace some of the Board's peace officers. On July 24, 2003, S.B. 362 was assigned to the Inactive File in the State Assembly.

**Customer Satisfaction Surveys.** The Dental Board developed a customer satisfaction survey and began to disseminate it in conjunction with the issuance of case closing letters during July 2003. Several enhancements to the survey are needed to enable the capture of key performance metrics, such as the level of satisfaction with the timeliness of the Board's complaint processing. Also, a process for compiling and summarizing survey responses needs to be developed along with an initial set of baseline performance metrics.

### Community Outreach and Education

None.

- Development of personal computer-based applications to assist in the tracking of legal action cases. The applications should be modified to (1) track the aging of cases by major step in the process, and (2) support production of performance measures, such as the average age of open or closed cases.
- Submission of a request to the Attorney General's Office for preparation of a background paper on the subject of complaint disclosures. A fully documented complaint disclosure policy is needed.
- Modification of the complaint tracking system to improve the quality of management information. Additional system enhancements and modifications are needed.
- Development of a customer satisfaction survey. The Board began disseminating the survey during July 2003. Enhancements to the survey are needed to enable capture of key performance measures such as the level of satisfaction with the timeliness of the Board's complaint processing services.
- Development of updated policy and procedures manuals for the Complaint Unit and for Probation Monitoring. Also, guidelines for the Industry Expert Program were developed. The Board has not yet updated the Inspection or Investigation Policy and Procedures Manuals. Also, the Board's Disciplinary Guidelines have not been updated since 1996.

**Exhibit V**, on the next page, provides a summary of recommendations contained in the Initial Report that the Dental Board has not yet begun to implement. As shown by Exhibit V, the Dental Board has not yet begun to implement 8 of the 43 recommendations that were contained in the Initial Report. Among these are included:

- Development of a structured process for assessing and monitoring Enforcement Program performance.
- Conduct of an analysis of Enforcement Program staffing requirements.
- Development of a new approach for estimating AGO and OAH staffing requirements and expenditures.
- Resolution of issues related to staff access to information regarding self-referred Diversion Program participants.
- Development of improved complaint closing letters.
- Conduct of formal written annual performance appraisals for all Enforcement Program staff.
- Development of a Community Outreach and Education Program.

**Recommendation III-2:** The Dental Board should develop an overall plan to implement each of the 18 recommendations contained in the Monitor's Initial Report that have not yet been fully implemented. This plan also should incorporate other recommendations for improvement included in this report. An accompanying time-phased schedule for implementation of each recommendation also should be provided.



## Summary of Recommendations That the Board Has Not Yet Begun to Implement

### Program Management

**Performance Monitoring.** Develop a structured process for assessing and monitoring Enforcement Program performance.

### Complaint Intake and Review

**CSR and Dental Consultant Staffing.** Complete an analysis of CSR and Dental Consultant staffing requirements.

### Inspections

**Inspector Staffing.** Complete an analysis of Inspector staffing requirements.

**Inspection Policies and Procedures.** Update the Inspection Procedures Manual.

### Investigations

**Investigator Staffing.** Complete an analysis of Investigator staffing requirements.

**Investigation Policies and Procedures.** Update the Investigation Policies & Procedures Manual.

**Industry Expert Training.** Develop and implement an Industry Expert Training Program.

**Diversion Program.** Resolve outstanding issues regarding staff access to self-referred participant information.

**Proactive Enforcement.** Develop and implement a Proactive Enforcement Program.

**Local Agency Coordination.** Establish cooperative agreements with Central and Northern California law enforcement and health services agencies to obtain assistance with investigations of unlicensed activity.

### Legal Actions and Remedies

**Disciplinary Guidelines.** Update the Board's Disciplinary Guidelines.

**AGO and OAH Expenditure Planning and Monitoring.** Restructure the approach used for estimating AGO and OAH staffing requirements and expenditures.

### Communications

**Complaint Closing Letters.** Develop a set of improved standard paragraphs that can be incorporated into complaint closing letters, and a series of model complaint closing letters that can be used for staff training and reference purposes.

### Program Administration

**Supervisor's Manual.** Develop a Supervisor's Manual covering such areas as supervisory responsibilities related to case reviews, performance appraisals, analysis of workload and business processes, etc.

**Employee Performance Appraisals.** Complete formal, written annual performance appraisals for all Enforcement Program staff.

**Support Staffing.** Complete an analysis of Enforcement Program support staffing requirements.

**Imaging.** Complete an assessment of document imaging needs.

### Community Outreach and Education

**Community Events.** Develop a substantive Community Outreach and Education Program that, at a minimum, provides a meaningful staff presence in higher risk communities through participation in a variety of community events. Develop collaborative relationships with local law enforcement and health service agencies in major metropolitan areas throughout the State to obtain assistance with community outreach and education activities

**Media Coverage.** Develop strategies and collateral materials to obtain and support positive media coverage of the Board's investigative activities.

## D. Program Performance

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Statistical data for the first half of FY2002/03 showed that there was a dramatic improvement in Enforcement Program performance during that 6-month period. For example:

- As of June 30, 2002, there were 1,454 pending complaints
- As of December 31, 2002, there were 1,026 pending complaints.

Partially as a result of this first-half reduction in the number of pending complaints, the amount of calendar time required to resolve or investigate complaints decreased during the second half of the fiscal year. For example:

- During FY2001/02 an average of about 5 months was needed to process complaints that the Complaint Unit closed. Also, an average of 10 months was needed to complete complaint investigations, excluding calendar time needed by the Complaint Unit to initially review these complaints.
- During the second half of FY2002/03 an average of about 3.5 months was needed to process complaints that the Complaint Unit closed. Also, the average amount of time needed to complete complaint investigations decreased to 8.6 months, excluding calendar time needed by the Complaint Unit to initially review these complaints.

This is a significant accomplishment given the Dental Board's inability to fill vacant Investigator and some professional and support staff positions throughout the year.

In other respects, statistical data for the second half of FY2002/03 are less encouraging. In comparison to the first half of the fiscal year, substantially fewer complaints were closed by the Complaint Unit. Also, substantially fewer complaints were closed following investigation. The high number of complaint closures achieved during the first half of the year was partially the result of one-time backlog reduction efforts that were not expected to recur during the second half of the year. Thus, lower numbers of closures during the second half of the year were expected.

Of concern is that there was virtually no change in the total number of pending complaints at the Dental Board during the second half of FY2002/03. Additionally, management has not developed specific goals or plans to further reduce the number of pending complaints or investigations. Finally, Enforcement Program staffing levels are expected to remain static for the foreseeable future, but could decrease further if turnover occurs and the Board is precluded from filling vacated positions. Because of these and other factors, it is unlikely that further improvements in the timeframes needed to review and investigate complaints will be realized unless specific actions are taken to achieve a different outcome.

Results of our detailed analysis of Enforcement Program operational performance are presented below. [Exhibit VI](#), at the end of this section provides a comparative summary of key workload and performance metrics for the Dental Board's Enforcement Program.

**Complaints Received:** During FY2002/03 the Board received 6 percent fewer complaints than were received during FY2001/02. During FY2002/03 the Dental Board received 2,974 complaints versus 3,178 complaints received during FY2001/02. This is the lowest number of complaints received by the Dental Board since the mid-1990s. The lower number of complaints received during FY2002/03 was a significant factor in helping the Board avoid the re-accumulation of complaint backlogs during the second half of the year.

**Complaints Reviewed by Dental Consultants:** For much of the past year, one of the Board's two full-time Dental Consultants was on an extended medical leave of absence and then retired from State service. Nonetheless, the Dental Board achieved a significant increase in the total number of completed quality of care complaints reviews. During FY2002/03 the Dental Consultants completed 2,093 complaint reviews compared to 1,297 reviews completed during FY2001/02. This 61 percent higher number of completed case reviews reflects the Board's increased use of a retired annuitant and outside experts to keep pace with the flow of assigned complaints and reduce the backlogs that existed at the beginning of the year. Recently, the vacant Dental Consultant position was abolished by the Department of Finance leaving only one remaining Dental Consultant position at the Board. This position is currently assigned to the Tustin Office. The Board plans to continue to utilize a Sacramento-based retired annuitant and outside experts to perform quality of care complaint reviews. This practice provides greater flexibility in terms of balancing staffing capabilities with fluctuating workload demands, and enables assignment of complaints to appropriately qualified experts when needed for specialized quality of care issues.

**Complaint Unit Closures:** During FY2002/03 the Complaint Unit closed 2,610 complaints versus 2,453 complaints closed during FY2001/02. This 6 percent higher number of Complaint Unit closures primarily reflects the results of one-time backlog reduction efforts undertaken during the first half of FY2002/03. There was a 23 percent decrease in the number of complaints closed during the second half of FY2002/03 compared to the first half of the year (1,137 versus 1,473). Staffing resource constraints contributed to the decrease in the number of complaints closed by the Complaint Unit during the second half of the year. Specifically, one of the Board's three full-time CSRs was available on only a part-time basis during the latter part of the year. In an effort to avoid the accumulation of additional backlogs in the Complaint Unit, other Enforcement Program personnel were redirected to assist in performing complaint intake and review functions. With these redirections, staff were able to keep pace with the flow of incoming complaints.

**Complaints Pending in the Complaint Unit:** At the beginning of FY2002/03 there were 971 complaints pending in the Complaint Unit. By December 31, 2002, the number of complaints pending in the Complaint Unit had decreased by 35 percent to 633 complaints. As of June 30, 2003, there were 593 complaints pending in the Complaint Unit. This represents a 39 percent decrease from the level that existed at the beginning of the fiscal year. As discussed previously, closer supervision of Complaint Unit operations and staff is needed to achieve further reductions in the number of pending complaints and associated improvements in performance. Also, currently there are no specific goals or plans related to further reducing the number of complaints pending in the Complaint Unit. Additional reductions in the number of pending Complaint Unit complaints are unlikely to be achieved given current staffing constraints, the absence of a supervisor for the Unit, and the lack of any specific goals or plans to do so.

**Complaints Referred for Inspection:** During FY2002/03 there was an 8 percent decrease in the number of complaints referred for inspection. This is largely attributable to the overall decrease in the number of complaints received by the Board. On an absolute basis, there was very little change in the number of complaints referred for inspection (237 during FY2002/03 versus 259 during FY2001/02).

**Complaints Closed Following Inspection:** During FY2002/03 the Dental Board's Inspectors closed substantially fewer complaints than were referred for inspection (167 closed versus 237 referred). Comparative inspection closure data for FY2001/02 are not available.

**Average Days to Close Following Inspection:** The Dental Board does not currently have automated systems that are capable of compiling aging data for complaints that are referred for inspection.

**Inspection Outcomes:** The Dental Board does not have a method for capturing information regarding the total number of site inspections performed. In most cases, only one site inspection is performed for a specific complaint, with verification of compliance usually provided in writing rather than by conducting additional site visits. However, there can be multiple "outcomes" associated with a single inspection complaint. For example, both a warning letter and a citation may be issued for different violations at the same location. **Table 1**, below, summarizes the outcomes resulting from the Board's site inspections for each of the past two fiscal years. As shown by Table 1, more formal warning letters and citations were issued during FY2002/03 than were issued during FY2001/02.

**Table 1**  
**Summary of Inspection Outcomes**

Type of Action	FY2001/02	FY2002/03
Informal Notice of Violation Issued	25	8
Formal Warning Letter Issued	87	136
Citation Issued	14	23
Referral to Investigation	5	3
Compliance Verified	174	145
No Violation Found	51	31
Out of Business	6	1

**Pending Inspections and Inspector Caseloads:** As of June 30, 2003, the Dental Board had about 100 pending inspection complaints. This compares to 51 pending inspection complaints at the beginning of the fiscal year. The increase in pending inspection complaints is generally consistent with the previously described difference between the number of complaints referred to inspection and the number of complaints closed following inspection. On average, each of the Board's 4 Inspectors is currently assigned about 25 inspection cases. Given the nature of these complaints and other responsibilities assigned to the Inspectors, the current caseload is considered an acceptable level. However, further increases in the number of pending inspection cases, as occurred during the past year, may cause caseloads to increase to levels that would no longer be as manageable.

**Complaints Referred for Investigation:** During FY2002/03 there was a 16 percent decrease in the number of complaints referred for investigation. This change is partially attributable to the reduced number of complaints received by the Board. Additionally, new policies and procedures were adopted to reduce the number of complaints referred for investigation and maintain a balance between investigative workload demands and the Board's staffing resource capabilities. On an absolute basis, 87 fewer complaints were referred for investigation (469 during FY2002/03 versus 556 during FY2001/02). During FY2002/03 only 15 percent of the complaints that were handled by the Complaint Unit were referred for investigation versus 17 percent referred for investigation during FY2001/02. During FY2002/03, 89 percent of the complaints referred for investigation concerned dentists and 11 percent concerned dental auxiliaries. During FY2001/02, 92 percent of the complaints referred to investigations concerned dentists and 8 percent concerned dental auxiliaries.

**Complaints Closed Following Investigation:** During FY2002/03 the Board's Investigators closed 565 complaints versus 462 complaints closed during FY2001/02. This 22 percent higher number of complaint closures following investigation primarily reflects the impacts of management's focus on conducting structured case reviews with the Board's Investigators on a regular basis and the results of one-time backlog reduction efforts undertaken during the first half of FY2002/03. There was a 28 percent decrease in the number of complaints closed following investigation during the second half of FY2002/03 compared to the first half of the year (236 versus 329). During the second half of the fiscal year the Board's eight Investigators closed an average of about 5 complaints per position per month. It is essential that this production level be maintained to keep pace with the flow of complaints referred for investigation and prevent the accumulation of additional complaint backlogs.

**Complaints Closed Following Investigation, By Category:** A decomposition of complaint closures following investigation by category is provided by **Table 2**, below. The data show that nearly one-half of the Dental Board's investigations involve negligence/incompetence issues. Also, a substantial portion of the Board's investigations involve unlicensed practice (15 percent). Offenses involving criminal charges, drugs, substance abuse, sexual misconduct, and fraud collectively comprise about 20 percent of the Board's complaint investigations. On average, the Board closes about 10 complaints per month involving these types of offenses.

**Table 2**  
**FY2002/03 Complaint Closures Following Investigation, By Category**

Category	Number	Percent
Negligence/Incompetence	262	46.4%
Unlicensed Practice	87	15.4%
Unprofessional Conduct	47	8.3%
Fraud	40	7.1%
Drug-Related Offenses	33	5.8%
Criminal Charges	28	5.0%
Substance Abuse	14	2.5%
No Jurisdiction	9	1.6%
Sexual Misconduct	6	1.0%
Other/Unknown	39	6.9%
<b>Total</b>	<b>565</b>	<b>100.0%</b>

**Complaints Pending Investigation:** At the beginning of FY2002/03 there were 432 complaints pending investigation. By December 31, 2002, the number of pending investigations had decreased by 22 percent to 336 complaints. However, the number of pending investigations has remained fairly constant since that time indicating that the Board's Investigators have been able to keep pace with the flow of newly referred complaints (i.e., as of June 30, 2003, there were 333 complaints pending investigation). Currently, there are no specific goals or plans related to further reducing the number of complaints pending investigation. Given current staffing constraints and the absence of any specific backlog reduction goals or plans, additional decreases in the number of pending investigations are unlikely to be achieved. Conversely, backlog levels are likely to quickly re-accumulate if current production levels are not maintained due to staff turnover or other factors.

**Investigator Caseloads:** On average, the Board's 8 Investigators are each carrying nearly 40 cases, excluding about two dozen cases that are assigned to the Tustin Office Enforcement Supervisor. This compares to an average caseload of about 56 assigned complaints per Investigator at the beginning of the fiscal year. While still higher than a desired level of 30 to 35 complaints per Investigator, these caseloads are more than 25 percent lower than existed as of June 30, 2002. Further reductions in Investigator caseloads are unlikely to be achieved given current staffing constraints and the absence of any specific goals or plans to further reduce the number of pending investigations.

**Complaint Aging – Complaints Closed Without Investigation:** During FY2001/02 about 5 months (149 days) was needed by the Complaint Unit to process complaints that were closed without referral for an inspection or investigation. During the first half of FY2002/03, this measure declined to 137 days. During the second half of FY2002/03, this measure declined further to 105 days (3.5 months). Additionally, there was a significant reduction in the percentage of these complaints that took longer than 6 months to close (20 percent in FY2002/03 compared to 35 percent in FY2001/02). The year-long decline in the average timeframe needed by the Complaint Unit to resolve complaints without referral for inspection or investigation primarily reflects the decrease in the backlog of complaints pending in the Complaint Unit that occurred at the beginning of FY2002/03. **Table 3**, below, further illustrates the substantial improvement that was recently achieved in terms of reducing the timeframes needed by the Complaint Unit to resolve complaints that are not referred for inspection or investigation.

**Table 3**  
**FY2002/03 Complaint Unit Closures, By Day Range**

Day Range	July to December		January to June	
	Number	Percent	Number	Percent
2 Months or Less	391	27%	342	30%
2 to 4 Months	383	26%	519	46%
4 to 6 Months	301	20%	149	13%
More Than 6 Months	398	27%	127	11%
<b>Total</b>	<b>1,473</b>	<b>100%</b>	<b>1,137</b>	<b>100%</b>

Further reductions in the amount of time needed by the Complaint Unit to resolve complaints are unlikely to be achieved given current staffing constraints, the absence of a supervisor for the Complaint Unit, and the lack of specific goals or plans to reduce the number of pending complaints.

**Complaint Aging – Complaint Investigations:** During FY2001/02 an average of about 10 months (299 days) was needed to complete complaint investigations, excluding calendar time needed by the Complaint Unit to initially process these complaints. As a result of the closure of large numbers of backlogged complaints during the first several months of FY2002/03, there was a temporary increase in this measure of the amount of time needed to investigate complaints (to 358 days during the first half of FY2002/03). More recently, during the second half of FY2002/03, this measure decreased to 259 days (8.5 months). As shown by **Table 4**, below, during FY2002/03 there was a significant reduction in the number and proportion of complaints that took longer than a year to investigate.

**Table 4**  
**FY2002/03 Complaint Closures Following Investigation, By Day Range**

Day Range	July to December		January to June	
	Number	Percent	Number	Percent
3 Months or Less	61	20%	55	23%
3 to 6 Months	48	15%	47	20%
6 to 9 Months	47	15%	44	19%
9 to 12 Months	39	13%	27	11%
More Than 12 Months	116	37%	63	27%
<b>Total</b>	<b>311</b>	<b>100%</b>	<b>236</b>	<b>100%</b>

Further reductions in the timeframes needed to investigate complaints are unlikely to be achieved given current staffing constraints and the absence of any specific goals or plans to reduce the number of pending investigations. To prevent the re-accumulation of complaint backlogs and associated adverse impacts on the timeframes needed to complete investigations, it is essential that current Investigator staffing levels and case closure rates be maintained (i.e., at least 5 closures per Investigator per month). Also, the Chief of Enforcement and the Tustin Office Enforcement Supervisor need to continue to focus investigative efforts on closing cases that have been opened the longest. It should not take a year or longer to complete an investigation, except in unusual circumstances.

**Complaints Referred for Criminal Prosecution:** During FY2002/03 the Dental Board referred 32 cases to local district attorneys for criminal prosecution. This compares to 22 cases referred during FY2001/02. This 45 percent higher referral rate primarily reflects the results of one-time backlog reduction efforts that were undertaken during the first half of the year. During the first half of FY2002/03 the Board referred 24 complaints to local district attorneys versus 8 referrals during the second half of the year. For the past two years, about 5 percent of the Board's investigations have resulted in a referral to local district attorneys for criminal prosecution. A portion of these cases may also be dual-referred to the Attorney General's Office for disciplinary action.



**Complaints Referred for Disciplinary Action:** During FY2002/03 the Dental Board referred 145 cases to the Attorney General's Office for disciplinary action. This compares to 118 cases referred during FY2001/02. This 23 percent higher rate of disciplinary action referrals primarily reflects the results of one-time backlog reduction efforts that were undertaken during the first half of the year. During the first half of FY2002/03 the Board referred 87 complaints to the AGO. During the second half of FY2002/03, 58 complaints were referred to the AGO (equivalent to 116 on an annual basis – nearly the same as the number referred during FY2001/02). For the past two years, about 25 percent of the Board's investigations have resulted in a referral to the AGO for disciplinary action. A portion of these cases may also be dual-referred to local district attorneys for criminal prosecution.

**Accusations Filed:** During FY2002/03 a total of 67 accusations were filed on behalf of the Dental Board, including 7 petitions to revoke probation. This compares to a total of 62 accusations filed during FY2001/02. The increased number of cases referred for disciplinary action during FY2002/03 will likely lead to an increase in the number of accusations filed during FY2003/04.

**Pending Legal Actions:** As of June 30, 2003, there were 141 cases pending legal action at the Attorney General's Office. This compares to 110 pending cases as of June 30, 2002. The increase in pending legal actions largely reflects the increased number of cases referred to the AGO following investigation, particularly during the first half of the fiscal year. Of the 141 total pending legal action cases, about two dozen involve petitions to modify, revoke, or terminate probation, or to reinstate a previously surrendered or revoked license. Also included are several cases involving license applications or other matters.

**Disciplinary Decisions:** During FY2002/03 there were 54 disciplinary decisions by the Dental Board compared to 25 disciplinary decisions during FY2001/02. **Table 5**, below, summarizes the disciplinary decisions made each year, by type of action. Disciplinary decisions adopted by the Dental Board usually contain numerous additional terms and conditions in addition to those highlighted by this summary. During the latter half of FY2001/02, the Dental Board was being reconstituted. The increased number of adopted disciplinary decisions shown for FY2002/03 primarily reflects the deferral of decisions that would otherwise have been made during FY2001/02.

**Table 5**  
**Summary of Disciplinary Decisions Adopted by the Board**

Type of Discipline	FY2001/02	FY2002/03
License Revocation	8	13
License Surrender	8	5
Revocation Stayed/Suspension with Probation	7	17
Revocation Stayed/Probation	2	18
Public Reprimand	0	1
<b>Total</b>	<b>25</b>	<b>54</b>

During FY2002/03, 2 cases were withdrawn or dismissed compared to 6 cases that were withdrawn or dismissed during FY2001/02.

**Case Aging – Disciplinary Actions:** Data is not available regarding the timeframes to complete disciplinary actions without reviewing individual case files. However, we reviewed the Dental Board’s legal action tracking reports to determine the approximate age of currently pending cases. Of the total pending referred investigations, about 60 percent were referred within the past year, 30 percent were referred one to two years ago, and 10 percent were referred more than two years ago. The average age of currently pending disciplinary cases is about 9 months. The average timeframe needed to conclude processing of disciplinary cases is most likely longer than a year – perhaps much longer.

**Probation Monitoring:** During FY2002/03, 39 new probation cases were opened and 26 cases were closed following completion of probation. Excluding 66 tollers, there were 181 active probation cases as of June 30, 2003. In the Sacramento Office, all 75 active probation cases are assigned to the Office’s two Inspectors (an average of 38 cases per Inspector). In the Tustin Office, 77 of the active probation cases are assigned to the Office’s two Inspectors (an average of 39 cases per Inspector). The remaining 29 active Tustin Office probation cases are considered to be more difficult or complex, and are assigned to one of the Office’s Investigators. Given the nature of this workload and the other responsibilities assigned to the Inspectors, a caseload of 35 to 40 cases per Inspector is considered an acceptable level.

**Diversion Program:** The Dental Board’s 3-year contract with Managed Health Network (MHN) for provision of Diversion Program services was completed on June 30, 2003. A competitive bid was conducted for these services that resulted in award of a 5-year contract to Maximus. The Board is currently completing the transition of Diversion Program services from MHN to Maximus. Currently, there are 66 participants in the Diversion Program, a significant reduction from the levels that have been reported previously. At this time it is not known how many participants have been referred or accepted into the Diversion Program, or how many participants successfully completed their treatment or either withdrew or were dismissed. Furthermore, some information that has previously been published regarding the Diversion Program may be inaccurate. Dental Board staff are currently planning to audit participant files to ascertain the status of former and current program participants.

**Recommendation III-3:** The Board should seek advice and assistance from the Department of Consumer Affairs in obtaining outside resources to help with its audit of Diversion Program participant files.

**Cost Recovery:** A total of \$176,071 in cost recoveries was ordered to be reimbursed to the Dental Board during FY2002/03 compared to only \$119,501 in cost recoveries that was ordered to be reimbursed during FY2001/02. The increase was largely due to several especially large amounts that were ordered to be reimbursed to the Board during FY2002/03 (i.e., \$35,000 in one case and \$25,000 in another). During FY2002/03 the Dental Board actually received \$144,256 in reimbursements.

**Restitution:** As a result of the Board’s complaint mediation efforts, \$96,731 in refunds or adjustments was obtained during FY2002/03 compared to only \$60,023 in refunds or adjustments obtained during FY2001/02. The increase is partially the result of obtaining refunds or adjustments for larger numbers of consumers (79 in FY2002/03 versus 59 in FY2001/02).

The Board could benefit from having Enforcement Program performance measured and reported on a continuous basis. This type of reporting would help the Board to establish and maintain a focus on needs to continuously improve Enforcement Program performance. It also would help to strengthen a sense of accountability for performance among Enforcement Program managers and staff.

**Recommendation III-4:** Board staff should periodically produce a public report that summarizes of key program performance measures, including most (or all) of the performance measures presented in this report. Prior period comparative statistics should be included along with accompanying narrative explaining any significant changes that have occurred. The report should help oversight authorities, industry representatives, and the public to understand Enforcement Program workload demands and performance, the impacts of any changes in staffing, and the results of efforts undertaken to improve service levels, effectiveness, and efficiency.

## Comparative Summary of Key Workload and Performance Measures

Workload or Performance Indicator		FY2002/03		Difference		Fiscal Year		Difference	
		Jul-Dec	Jan-Jun	Number	Percent	2001/02	2002/03	Number	Percent
Complaint Intake & Review	Complaints Received	1,441	1,533	92	6%	3,178	2,974	(204)	-6%
	Referred to Consultants	1,192	684	(508)	-43%	1,490	1,876	386	26%
	Completed By Consultants	1,260	833	(427)	-34%	1,297	2,093	796	61%
	Closed by Complaint Unit <sup>1</sup>	1,473	1,137	(336)	-23%	2,453	2,610	157	6%
	Average Days to Close <sup>1</sup>	137	105	(32)	-23%	149	116	(33)	-22%
	Percentage Taking Longer Than 6 Months to Close	27%	11%	NA	NA	35%	20%	NA	NA
	Average Days to Refer to Investigation	125	92	(33)	-26%	135	110	(25)	-19%
	Pending Complaints (End of Period)	633	593	(40)	-6%	971	593	(378)	-39%
Investigations	Referred to Investigation	244	225	(19)	-8%	556	469	(87)	-16%
	Closed Following Investigation	329	236	(93)	-28%	462	565	103	22%
	Cases Closed Per Investigator Per Month	6.9	4.9	(1.9)	-28%	4.8	5.9	1.1	22%
	Average Days to Close (Excluding Intake & Review)	358	259	(99)	-28%	299	315	16	5%
	Percentage Taking Longer Than 1 Year to Close	37%	27%	NA	NA	37%	33%	NA	NA
	Pending Investigations (End of Period)	336	333	(3)	-1%	432	333	(99)	-23%
	Investigator Caseloads (Average, End of Period)	40	40	0	0%	54	40	(14)	-26%
	Referrals for Disciplinary Action (AGO)	87	58	(29)	-33%	118	145	27	23%
Legal Actions	Referrals for Criminal Prosecution (DAs)	24	8	(16)	-67%	22	32	10	45%
	Accusations Filed					62	67	5	8%
	Pending Legal Actions	114	141	27	24%	110	141	31	28%
	Average Days to Complete	Unknown	Unknown	NA	NA	Unknown	Unknown	NA	NA
Inspections	Disciplinary Outcomes (see Table 5)								
	Referred to Inspection	127	110	(17)	-13%	259	237	(22)	-8%
	Inspection Unit Closures	Unknown	Unknown	NA	NA	Unknown	167	NA	NA
	Inspection Outcomes (see Table 1)								
	Average Days to Close	Unknown	Unknown	NA	NA	Unknown	NA	NA	NA
	Pending Inspections (End of Period)	Unknown	100	NA	NA	51	100	49	96%
Total Pending Complaints (End of Period)	Inspector Caseloads (Average, End of Period)	Unknown	25	NA	NA	13	25	12	92%
		1,050(Est)	1,026	-24	-2%	1,454	1,026	(428)	-29%
Probation	Opened Cases					39	39	0	0%
	Completed Cases					65	26	(39)	-60%
	Pending Cases (End of Period, Excluding Tollers)					179	181	2	1%
Diversion	Number of Participants					Unknown	66	NA	NA
	Number of Referrals					FY2002/03 data is not available. Some previously reported data may be inaccurate. DBC staff are planning to audit participant files.			
	Number of Acceptances								
	Number of Successful Completions								
	Number of Dismissals and Withdrawals								
Other	Cost Recovery Ordered					\$119,501	\$176,071	\$56,570	47.3%
	Number of Consumer Refunds and Adjustments					59	79	20	34%
	Total Consumer Refunds and Adjustments					\$60,023	\$96,731	\$36,708	61.2%

1) Excludes all complaints referred for either inspection or investigation.

## E. Unlicensed Activity Investigations

At the request of the Department of Consumer Affairs, a targeted analysis was performed of the Dental Board's investigations of complaints alleging unlicensed practice by non-licensees. The purpose of the analysis was to identify and assess how the Dental Board is currently handling these types of complaints. Complaints involving licensees, such as when a licensee practices medicine or when a licensed assistant or hygienist performs unlicensed procedures under the supervision of a licensed dentist, were excluded from the scope of this review.

All complaints alleging unlicensed practice by non-licensees are referred for investigation. As of April 1, 2003, there were 52 pending non-licensee complaints, of which 41 (79 percent) were assigned to the Tustin Office for investigation. This data illustrates the disproportionately high frequency of occurrence of unlicensed activity in the Southern California Region.

During CY2002 the Dental Board completed 53 non-licensee complaint investigations. [Table 6](#), below, shows when each of these complaints was received, and their disposition. As shown by Table 6, some of these complaints were not closed or referred for legal action for as long as five years after they were received. However, the magnitude of this problem has recently diminished. With one exception, the 52 non-licensee cases pending as of April 1st had all been received within the previous eighteen months.

**Table 6**  
**CY2002 Non-Licensee Complaint Closures**

Received	Non-Legal Closures			Legal Closures				Total Closures
	North	South	Total	North	LA-HALT	Other South	Total	
1997/98	0	2	2	0	0	2	2	4
1998/99	0	0	0	0	0	1	1	1
1999/00	0	3	3	0	0	0	0	3
2000/01	7	2	9	0	1	0	1	10
2001/02	7	3	10	1	9	6	16	26
2002/03	0	3	3	0	2	4	6	9
<b>Total</b>	<b>14</b>	<b>13</b>	<b>27</b>	<b>1</b>	<b>12</b>	<b>13</b>	<b>26</b>	<b>53</b>

With respect to closing dispositions, a large percentage of the investigations of non-licensee complaints were closed with a legal action disposition (nearly 50 percent). In almost all cases these legal action closures were referrals to a local District Attorney for criminal prosecution. Other types of legal action dispositions included referrals to the Department of Health Services (e.g., for cases involving fraud) and referrals to the Attorney General's Office (e.g., for cases involving non-licensee ownership of a dental practice).

The data shown in Table \_ also shows that 25 of 38 cases handled by the Tustin Office were referred for legal action compared to only 1 of 13 cases referred for legal action by the Sacramento Office. The primary reasons given for the lower proportion of legal action closures in Northern California include a lack of sufficient local law enforcement agency support and constraints related to having only three Investigators available for all of Northern California. Also, none of the Northern California Investigators are bilingual. In some cases, this makes it more difficult for them to conduct undercover investigations.

In contrast, the Tustin Office works cooperatively with local law enforcement agencies throughout the Southern California Region in connection with the investigation of complaints involving the unlicensed practice of dentistry. Also, about one-half of the Tustin Office's legal action closures are completed in cooperation the Health Authority Law Enforcement Task Force (HALT). HALT assists the Dental Board in responding to complaints of unlicensed activity occurring in Los Angeles County. HALT, which was started in February 1999, is a multi-agency jurisdictional task force consisting of representatives from the Los Angeles County Department of Health Services, Los Angeles County Sheriff's Department, Los Angeles Police Department, the State Department of Health Services, and the Dental Board of California. By working with HALT, the Dental Board is able to combine resources and expertise to more effectively investigate unlicensed dental activity.

When a complaint alleging unlicensed activity within Los Angeles County is received by the Dental Board, it is assigned to a Dental Board Investigator and then sent to the HALT team for their review. A HALT Detective goes to the location and attempts an undercover dental appointment. If a violation occurs, a report is prepared by the Detective and the Dental Board's assigned Investigator is notified. A search and arrest warrant is drafted, signed by a judge, and jointly served by the Dental Board and HALT. In addition to Investigators from the Dental Board, who have lead responsibility for all of these investigations, the following personnel are generally present during the serving of a search warrant and arrest of an unlicensed practitioner:

- A Los Angeles County Sheriff's Department Sergeant
- Several Los Angeles Sheriff's Department Detectives
- A Los Angeles Police Department Detective (if applicable)
- A Los Angeles County Health Officer (who arranges for Haz-Mat, Radiation Management, etc, to respond to the location)
- A Pharmacist.

Upon service of the warrant and arrest of the subject, all of the subject's dental equipment is seized, including x-ray machines, dental chairs, documents relating to the unlicensed practice (e.g., appointment books), and illicit pharmaceuticals. The arrest is considered a joint venture. If the subject is to be booked at the station, then the Sheriff's Department provides transportation. The arresting agency is listed jointly between the Dental Board and the Los Angeles County Sheriff's Department. Between February of 1999 and December of 2002, 124 complaints alleging unlicensed activity were referred to HALT, and 79 arrests were made (64 percent).

The Dental Board's responsibilities after these arrests include the following:

- Interviewing all witnesses on the scene, and subsequent witnesses depending on the evidence that is uncovered
- Searching the premises and seizing needed evidence
- Taking photographs and preparing diagrams
- Gathering documents from the pharmacist and Haz-Mat team
- Writing the investigative report detailing the elements of the offense, and including all supporting documentation
- Packaging the report and submitting it to the District or City Attorney.

HALT is currently funded entirely by Los Angeles County. Because seized dental equipment is large and difficult to store, HALT has contracted with a private agency to assist with the inventory, transportation, and storage of the equipment. The contractor stores the equipment pending adjudication and an order from the court providing instructions for its disposal/sale or donation. HALT has estimated that the cost of each investigation is about \$3,647, including about \$700 for storage and transportation for dental equipment.

The charges that are filed in connection with Dental Board investigations of complaints alleging the unlicensed practice of dentistry depend on the circumstances of the case involved. Typically, the charges include:

- Section 1701(f) of Business and Professions Code (unlicensed practice of dentistry)
- Section 4060 of the Business and Professions Code (possession of a controlled substance, except that furnished to a person upon prescription of a Physician, Dentist, Podiatrist, or Veterinarian)
- Section 4140 of Business and Professions Code (unlawful possession of a hypodermic syringe/needle)
- Section 4059 of the Business and Professions Code (unlawful sale or furnishing of dangerous drugs without a prescription).

The penalties imposed vary depending on the jurisdiction in which the charges are filed. Currently, the unlicensed practice of dentistry is a misdemeanor, and the maximum penalty allowed for a misdemeanor is up to one year in County jail. In Los Angeles County, penalties usually include 3 years probation, a fine, community service, restitution of investigative costs, and the surrender of all dental equipment. Jail time has been imposed in San Diego County. In rare circumstances, prison terms may be imposed due to felony filings such as assault with a deadly weapon stemming from bad dental work and the severe disfigurement of the patient.

The only time that unlicensed practice of dentistry is charged as a felony is when the subject arrested has previously been “convicted” of a violation of Section 1701(f) of the Business and Professions Code. If an individual is arrested for unlicensed dentistry, has a warrant outstanding for their arrest because they did not appear in court, and they are arrested again for the same offense, only misdemeanor charges can be filed because there hasn’t been a conviction. Because the Dental Board is limited to pursuing misdemeanor charges, it sometimes lets other agencies take the lead on the investigations because the other agencies are able to pursue more severe punishments as appropriate to the circumstances (i.e., larger fines, longer term of imprisonment in a county jail, or imprisonment in a state prison).

It is our understanding that legislation has been introduced in the past to make the crime of practicing dentistry without a license a felony for first-time offenders, but was never enacted. In contrast, current statutes governing the unlicensed practice of medicine permit the filing of either misdemeanor or felony charges against any offender depending on the circumstances (see Section 2052 of the Business and Professions Code). To help prevent unlicensed activity and to provide the Dental Board with increased authority in these cases, it could be beneficial to have these same type of provisions extended to the unlicensed practice of dentistry.

Finally, the Dental Board’s unlicensed activity investigation program is highly dependent on having cooperative relationships with various Southern California local law enforcement agencies, particularly HALT. However, due to current budget constraints, there is a possibility that HALT could be disbanded.

**Recommendation III-5:** The Dental Board should consider sponsoring legislation that would increase the potential penalties that can be imposed on offenders that practice dentistry without a license.



## F. Customer Relations

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The Monitor continues to believe that baseline performance metrics regarding the level of consumer satisfaction with the Dental Board's services are needed so that the Board and other stakeholders can assess current Enforcement Program service levels and determine the impacts of the Board's performance improvement efforts. In our Initial Report we recommended that the Dental Board immediately disseminate a customer satisfaction survey for all complaints closed during FY2001/02, and disseminate surveys during FY2002/03 in conjunction with the issuance of case closing letters. The Dental Board did not conduct a customer satisfaction survey for any complaints closed during FY2001/02. It also did not conduct a customer satisfaction survey for any complaints closed during FY2002/03. As a result, as of this date there are no baseline performance metrics available regarding the level of customer satisfaction with the Dental Board's Enforcement Program services.

In July 2003 the Dental Board began disseminating a customer satisfaction survey that it recently developed. The survey asks respondents to indicate their level of satisfaction (low, medium, or high) in each of the following areas:

- If you initially contacted the Dental Board by telephone, were you satisfied with the information or assistance provided by our staff?
- Were you satisfied with the information or advice you received on the handling of your complaint?
- Were you kept informed about the status of your complaint during:
  - ◆ the initial complaint review process?
  - ◆ the investigative process?
  - ◆ the disciplinary process?
- Were you provided with the information about the outcome of your complaint and were the findings clearly explained to you? Note: we are interested in whether the information provided on the complaint disposition was sufficient, not whether you agreed or disagreed with the findings.
- Were you satisfied with the overall service provided by the Dental Board?

A space also is provided for respondents to provide any comments or suggestions that they believe would improve the services that they received. A final question asks respondents to indicate how they found out where to file a complaint (consumer fair, friend/relative, Internet, licensee or other health care provider, other governmental agency, telephone book/information, or other).

The results of our assessment of the Dental Board's customer satisfaction survey are somewhat mixed. On the one hand, it is encouraging that the Board has finally begun to disseminate a customer satisfaction survey. Also, the survey questions are generally good. On the other hand, there are several basic questions that aren't asked that should be included as part of such a survey. Specifically, the Dental Board should revise its survey to query complainants in the following three areas:

- Whether they were treated courteously by the Board's representatives
- Whether their complaint was processed in a timely manner
- Whether the action taken by the Board on their complaint was appropriate.

All three of these areas are central to understanding customer satisfaction with the Dental Board's Enforcement Program services, and none are specifically addressed by the questions included in the current survey.

**Recommendation III-6:** The Dental Board should modify its customer satisfaction survey to obtain input from complainants regarding whether they were treated courteously, whether their complaint was processed in a timely manner, and whether the action taken by the Board was appropriate.

## **G. Financial Management**

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The Dental Board's Budget Officer now regularly meets with Department of Consumer Affairs Fiscal Office staff for the purpose of preparing updated expenditure projections. As a result, the Dental Board appears to have done a much better job of managing its budget this past year. Additionally, the Board's new Executive Officer is more involved with and exercising greater control over the Board's fiscal management processes.

## **H. Potential Emerging Issues**

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A potential emerging issue involves the dental industry's Peer Review Program. The Peer Review Program is administered by local chapters of the California Dental Association. Under the Peer Review Program, consumers who have experienced a problem with their dentist can request that the local dental society assign another practicing dentist to review the complaint and provide assistance to them in resolving the dispute. Unlike the Dental Board, the local dental societies have no authority to discipline a licensee.

Consumers involved in a dispute regarding dental services are sometimes referred by their dentist to a local dental society for assistance. However, the operation of these Peer Review Programs potentially contributes to some confusion among consumers who, in some cases, believe that they are filing a complaint with the Dental Board. For example, during the past year the Enforcement Monitor received two telephone calls from consumers regarding disputes they were having with their dentists. In both cases these consumers indicated that they had first been referred to the local dental society, but thought that they were actually filing a complaint with the Dental Board. It wasn't until much later, after their dispute was not satisfactorily resolved, that they learned that they could file a complaint with the Dental Board.

A class action lawsuit was recently filed in San Diego County Superior Court alleging that the operation of the Peer Review Program harms consumers. While the Monitor has no opinion on the merits of the lawsuit, it is highlighted here because of the potential workload impacts it could have on the Enforcement Program. Specifically, if the lawsuit is successful, some complaints that are currently resolved by local dental societies might, instead, be filed with the Dental Board.

Currently, to reduce confusion between the medical profession's Peer Review Program and the Medical Board, the medical societies are required by statute to provide certain disclosures to complainants. State and local government agencies that receive complaints involving the competence or conduct of a physician also are required to provide these same disclosures. The legislation requiring these disclosures was enacted in 1993.

To date, similar disclosure requirements have not been mandated in connection with the dental profession's Peer Review Program. Determination of whether such disclosures have helped to reduce confusion among consumers involved in disputes with their doctors, or would help to reduce confusion among consumers involved in disputes with their dentists, was considered beyond the scope of this assignment.

**Recommendation III-7:** The Dental Board should consider sponsoring legislation that would require that dental societies and state and local government agencies, that receive complaints involving the competence or conduct of a dentist, disclose to the complainant that the Dental Board is the only authority in the State that can take disciplinary action against the license of a licensee, and provide the complainant with the Dental Board's mailing address, toll-free phone number, and website address.

## **Appendix A**

**Preliminary “Blue Print”  
for an Improved  
Enforcement Program**

# Appendix A

## Preliminary “Blue Print” for an Improved Enforcement Program

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This Appendix identifies two dozen initiatives that should be undertaken by the Dental Board to improve Enforcement Program performance and service levels. For each identified initiative, supporting information is provided that characterizes the Board’s current circumstances (i.e., the “Current State”) and also ideal circumstances that could be achieved at some point in the future (i.e., the “Future State”). The various improvement initiatives are intended to serve as a pathway for transitioning from the Current State to the ideal Future State.

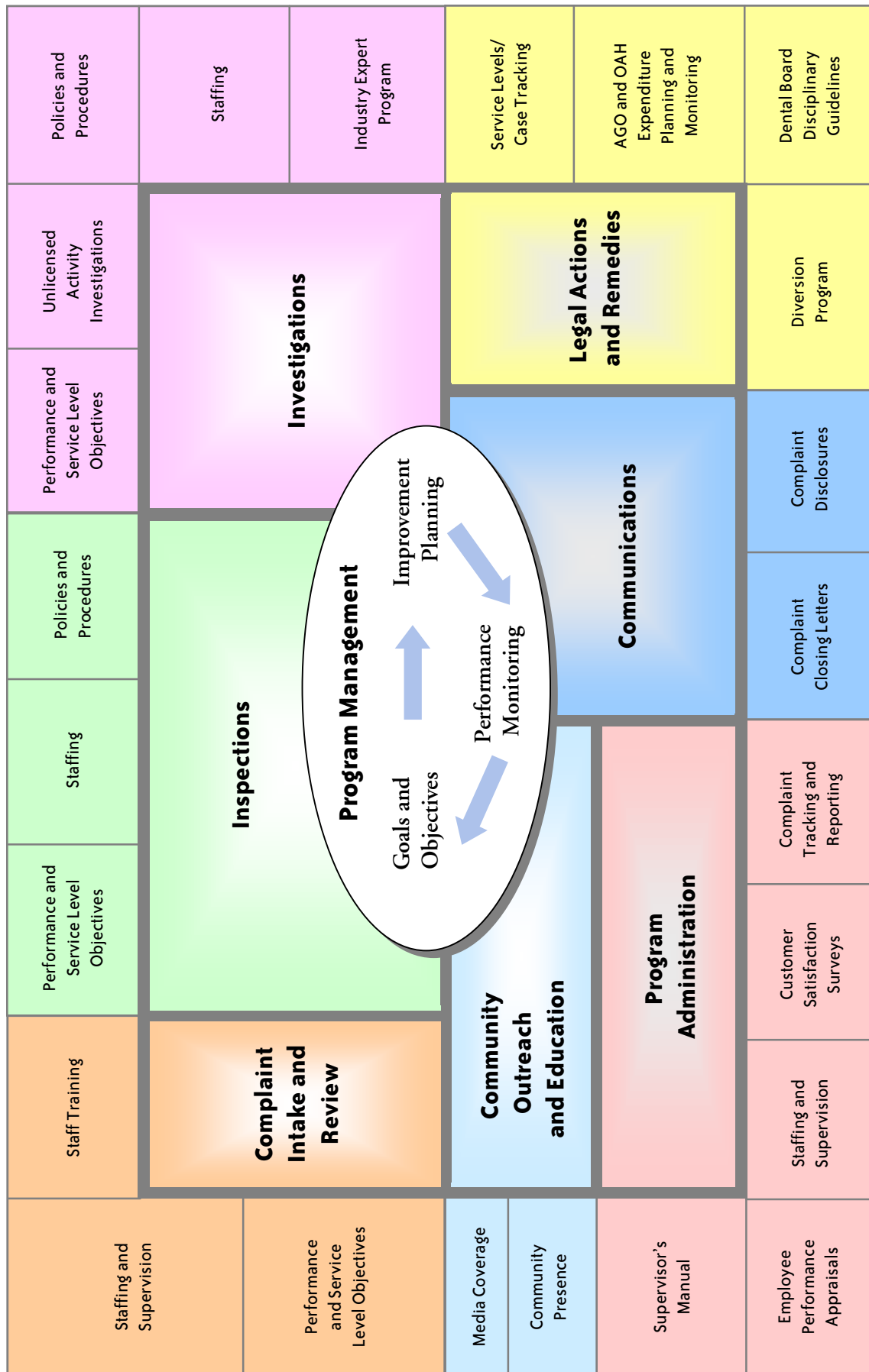
**Exhibit A-1**, on the next page, provides a one-page schematic overview of all of the specific areas that are targeted for improvement. Many of these initiatives can be implemented now with currently available resources. Preparatory work can be completed for those initiatives that may take longer to implement due to staffing resource or funding constraints. Due to the State’s current fiscal circumstances, some of the initiatives may not be able to be fully implemented for a year or two, or possibly longer. Board staff need to develop a time-phased schedule for implementation of all of the improvement initiatives and provide it to the Board for ongoing status monitoring purposes (see Recommendation III-2 of the Monitor’s Third Report).

Additionally, it would be helpful if the Board proactively managed its Enforcement Program performance and service level improvement efforts (see Recommendation III-1 of the Monitor’s Third Report). This should include:

- Identification of performance and service level goals and objectives for each service area (e.g., complaint intake and review, inspections, investigations, legal actions, etc.)
- Development of an *Enforcement Program Service Improvement Plan* that defines specific improvement initiatives that will be undertaken to transition toward or achieve the identified service level goals and objectives

Finally, a public report should be periodically prepared (e.g., semi-annually and annually) that provides a summary of key performance measures along with prior period comparative statistics and accompanying narrative explaining any significant changes that have occurred (see Recommendation III-3 of the Monitor’s Third Report). The periodic performance reporting should be used to determine whether needs exist to update previously established goals and objectives, and as a starting point for the subsequent period’s improvement planning efforts.

# Enforcement Program Improvement Portfolio



AGO – Attorney General's Office  
OAH – Office of Administrative Hearings

## Complaint Intake and Review

### A. Performance and Service Levels

#### **Current State**

More than 75 percent of complaints are resolved without referral for inspection or investigation. An average of more than 100 days is needed for processing these complaints. Nearly 25 percent take longer than 4 months to resolve and more than 10 percent take longer than 6 months to resolve.

#### **Future State**

At least 75 percent of complaints are resolved without referral for inspection or investigation. Complaints that are not referred for inspection or investigation are closed in an average of less than 75 days. Except in unusual circumstances, complaints not referred for inspection or investigation are closed within 180 days.

#### **Improvement Initiative**

Establish service level objectives that are aligned with the Board's processing goals. Continue to regularly review aging reports to identify and expedite the processing of complaints that are approaching or exceed established service level objectives.

### B. Staffing and Supervision

#### **Current State**

Enforcement Program support staff are regularly redirected to augment Complaint Unit staffing. Backlogs frequently accumulate at various points in the complaint-handling process, resulting in processing delays until personnel are redirected to help get caught back up. There is no dedicated Supervisor for the Complaint Unit or for Enforcement Program support functions. The position previously allocated for this purpose was redirected to other program areas. All Sacramento Office Enforcement Program staff report directly to the Chief of Enforcement who has limited time available to supervise the Complaint Unit. The absence of a Sacramento Office Enforcement Supervisor adversely impacts staff effectiveness and efficiency and the timeframes needed to perform complaint intake and review functions.

#### **Future State**

An adequate level of supervision is provided for complaint intake, review, and program support functions and staff. A recently abolished support position is reinstated.

#### **Improvement Initiative**

Realign supervisory and management responsibilities to provide adequate supervision for the Complaint Unit and program support functions. Complete a workload and staffing analysis to support a request for reinstatement of a recently abolished program support position.

### C. Staff Training

#### **Current State**

Staff are not sufficiently trained which adversely impacts effectiveness, efficiency, service levels, and the quality of management information produced from the Board's complaint tracking system.

#### **Future State**

Staff training needs are identified and a formal training plan to address these needs is developed and implemented.

#### **Improvement Initiative**

Conduct a structured assessment of staff training needs and develop and implement a plan to address these needs.



## Inspections

### A. Performance and Service Levels

#### **Current State**

The Board does not have any specific objectives pertaining to inspector performance or processing timeframes for completing inspections.

#### **Future State**

Processing timeframe and inspector performance objectives are established for completing inspections

#### **Improvement Initiative**

Establish performance and service level objectives that are aligned with the Board's processing goals. Review aging reports on a frequent basis to identify and expedite the completion of any inspections that are approaching or exceed established service level objectives.

### B. Staffing

#### **Current State**

Staff effectiveness and efficiency, and program service levels, are adversely impacted as a result of having very small numbers of specialized staff in two separate regional offices. Also, inspection, probation monitoring, and investigation workload is not always able to be optimally balanced between offices and between non-sworn and sworn personnel.

Prior to the late-1990s, the Board had 2 authorized Inspector positions. Currently, there are 4 authorized Inspector positions. These positions are evenly allocated between the Sacramento and Tustin Offices, even though the majority of assigned inspection and probation cases involve Southern California licensees. Inspection and probation monitoring workload are not able to be allocated evenly among these staff. Currently, Sacramento Office Inspectors have some time available to assist the Office's Investigators. In contrast, one of the Tustin Office Investigators currently does some probation monitoring. As a result, some investigative workload is, in turn, shifted to the Tustin Office Enforcement Supervisor.

In the past the Board has had as many as 17 authorized Investigator positions. The Board currently has 10 authorized Investigator positions, including the Chief of Enforcement and the Tustin Office Enforcement Supervisor. There are only 3 Investigators available to perform all Northern California investigations, and there are only 5 Investigators available to perform all Southern California investigations. Investigative cases are not able to be allocated evenly among these staff. For example, Sacramento Office Investigators are currently carrying fewer than 30 cases. In contrast, Tustin Office Investigators are currently carrying about 45 cases, excluding about two dozen cases that are assigned to the Tustin Office Enforcement Supervisor.

#### **Future State**

Within each of the Board's offices, a pool of Investigators performs all investigation, probation monitoring, and inspection work. At least one of the two recently abolished Tustin Office Investigator positions is reinstated to better align aggregate Southern California workload demands with the Tustin Office's staffing resource capabilities.

#### **Improvement Initiative**

Perform an analysis of the benefits and costs of converting the Board's non-sworn Inspector positions to sworn Investigator positions. Complete a workload and staffing analysis to support a request for reinstatement of at least one of the two recently abolished Tustin Office Investigator positions. The analysis should encompass inspection, probation monitoring, and investigative workload demands.

### B. Policies and Procedures

#### **Current State**

The Inspection Policy and Procedures Manual is incomplete. This contributes to variability in the way that work is performed, and makes it more difficult to train staff.

#### **Future State**

A complete set of up-to-date policies and procedures governing inspections is available for staff training and reference purposes.

#### **Improvement Initiative**

Develop an updated and improved Inspection Policies and Procedures Manual.

## Investigations

### A. Performance and Service Levels

#### Current State

Investigators close more than 5 complaints per position per month (60 complaints per year). More than 25 percent are legal action closures. However, Investigator caseloads are too high (about 40 cases per position), adversely impacting the timeframes needed to complete investigations. Complaint investigations take too long (i.e., an average of 8.5 months, with more than 25 percent taking longer than a year). Supervisory personnel conduct structured case reviews with their Investigators on a regular basis.

#### Future State

Investigators close at least 5 complaints per position per month (60 complaints per year), assuming that non-sworn staff perform most inspection and probation monitoring functions. At least 25 percent are legal action closures. Investigator caseloads do not exceed 35 cases per position. Except in unusual circumstances, complaint investigations are completed within 12 months. The average timeframe needed to complete complaint investigations is less than 6 months.

#### Improvement Initiative

Establish performance and service level objectives that are aligned with the Board's processing goals. Review aging reports on a frequent basis to identify and expedite the processing of complaints that are approaching or exceed established service level objectives.

### B. Unlicensed Activity Investigations

#### Current State

There is a greater degree of collaboration between the Board and local law enforcement and health services agencies in Southern California than in Central and Northern California in connection with investigations of complaints involving unlicensed activity. As a result, in Southern California unlicensed practitioners are much more likely to be the subject of legal actions initiated by local district attorneys. Unlike the unlicensed practice of medicine, practicing dentistry without a license is a misdemeanor for first-time offenders.

#### Future State

There is a high degree of collaboration between the Board and local law enforcement and health services agencies throughout California in connection with investigation of complaints involving unlicensed activity. As a result, unlicensed practitioners are equally likely to be the subject of legal actions initiated by local district attorneys irrespective of the region in which the offense occurs. Like the unlicensed practice of medicine, practicing dentistry without a license is either a misdemeanor or a felony for any offender.

#### Improvement Initiative

Establish cooperative agreements with Central and Northern California law enforcement and health services agencies to obtain assistance with investigations of unlicensed activity. Sponsor legislation that would make the crime of practicing dentistry without a license either a misdemeanor or a felony for any offender.

### C. Policies and Procedures

#### Current State

The Investigation Policy and Procedures Manual is incomplete. This contributes to variability in the way that work is performed, and makes it more difficult to train staff. A previous effort to update the Investigation Policy and Procedures Manual was suspended due to staffing constraints.

#### Future State

A complete set of up-to-date policies and procedures governing complaint investigations is available for staff training and reference purposes.

#### Improvement Initiative

Develop an updated and improved Investigation Policies and Procedures Manual.

### D. Staffing

#### Current State

See Section II (Inspections).

#### Future State

See Section II (Inspections).

#### Improvement Initiative

See Section II (Inspections).

## Investigations (cont.)

### E. Industry Expert Program

#### **Current State**

The Board has experienced continuing difficulty in retaining industry experts, particularly in cases where court testimony services are expected to be needed. Also, the quality of services provided is often times below desired levels. Industry experts are currently paid a minimum amount for their services. There is a significant disparity between the rates paid by the Board for industry expert services and prevailing market rates paid for industry expert services by those against whom the Board has initiated a legal action. The rates paid by the Dental Board are also lower than the rates paid by the Medical Board. Additionally, industry experts do not receive formal training related to the provision of industry expert services, which further contributes to problems with the quality and level of service provided. Finally, the Board's complaint tracking system does not enable monitoring of the status and age of cases assigned to industry experts.

#### **Future State**

Industry expert billing rates are established at a level that reflects their value to the Board and fairly compensates them for time away from their practice. Orientation training is provided to all newly appointed experts. Management is able to monitor industry expert performance and service levels. Develop a system for identifying cases that are not completed by industry experts on a timely basis.

#### **Improvement Initiative**

Prepare a proposal to increase industry expert billing rates. Also, develop and implement an orientation training program for newly-appointed experts. Finally, develop a system for tracking the status and age of cases assigned to industry experts

## Legal Actions and Remedies

### A. Service Levels/Case Tracking

#### Current State

Legal action case processing takes too long (i.e., at least one to two years in many instances). A major contributing factor is the extended lead time needed to calendar a hearing. The Chief of Enforcement recently directed the AGO to calendar hearings at the earliest possible time, which is expected to help reduce the delays currently being experienced. Current case tracking and reporting systems are limited in terms of their ability to identify cases that are not progressing through the process on a timely basis.

#### Future State

Except in unusual circumstances, legal action cases are processed within standard timeframes established by the AGO, as follows:

- Assignment to an attorney within 5 days
- Filing of an accusation within 60 days
- Return of stipulated agreement within 180 days
- Return of decision within 270 days.

Case aging reports are routinely prepared to help management identify cases that are not being processed on a timely basis. Performance metrics, such as the average age of open and closed cases, are captured and reported.

#### Improvement Initiative

Enhance current case tracking systems to enable identification of case processing timeframes by major step in the process and to produce performance metrics such as the average age of open or closed cases. Closely monitor the status of all pending legal action cases to assure that cases are progressing through the process on a timely basis. Follow-up with the AGO to assure that hearings are calendared at the earliest possible time.

### B. AGO and OAH Expenditure Planning and Monitoring

#### Current State

The Board does not have an effective method for projecting AGO or OAH staffing requirements and associated expenditures. On a combined basis, these expenditures account for nearly 20 percent of the Board's entire budget, and an even higher proportion of the Board's Enforcement Program budget. Because the Board does not have an effective method for estimating AGO and OAH staffing requirements and expenditures, there is a risk that it will under-utilize available funding resources or, alternatively, need to suspend the processing of some legal action cases in order to stay within budget. Currently, projections of AGO and OAH expenditures are based largely on actual prior year amounts. However, on a year-to-year basis, the amounts actually expended for AGO and AOH services have tended to fluctuate by significant amounts, in some cases by more than 50 percent. The mechanistic use of prior year actual expenditures as a basis for projecting current year expenditures can contribute to significant end of year budget surpluses (or deficits).

#### Future State

At any point in time, the Board can produce reasonable estimates of current year expenditures for AGO and OAH services that are developed based on information about pending legal action cases and the anticipated number of days (or hours) of legal services that will be needed for each of these cases.

#### Improvement Initiative

In collaboration with representatives of the AGO and OAH, develop and implement a case-based method for estimating staffing resource requirements and associated expenditures.

### C. Dental Board Disciplinary Guidelines

#### Current State

The Board's Disciplinary Guidelines have not been updated since 1996. In some areas the Guidelines are no longer aligned with current practices.

#### Future State

An up-to-date, complete set of Disciplinary Guidelines is available for training and reference purposes.

#### Improvement Initiative

Develop an updated and improved set of Disciplinary Guidelines and submit it to the Board for adoption.

### D. Diversion Program

#### Current State

Board staff do not always have available information regarding self-referred participants who are the subject of subsequent complaints.

#### Future State

On an as-needed basis, staff are able to obtain information on self-referred participants in the Diversion Program.

#### Improvement Initiative

Resolve outstanding issues regarding staff access to self-referred participant information.

## Communications

### A. Complaint Disclosures

#### ***Current State***

The Board has no written policy governing the information that may be provided to the public regarding licensees. Written directions are particularly important in requests for complaint-related information. Requests for such information are typically routed to one or two people who, generally, limit disclosure to actual incidents involving Board disciplinary action and reports of malpractice "judgments" over \$10,000. Information is not provided on settlements related to alleged malpractice, or complaints that have not concluded with disciplinary action.

On July 16, 2002, the Department of Consumer Affairs released to all of the Department's boards and bureaus a draft memorandum on the subject of "Minimum Standards for Consumer Complaint Disclosure". Application of the guidelines contained in the draft memorandum could substantially alter the Board's practices with respect to disclosing information on consumer complaints. The Board recently requested that the AGO research current statutes and regulations, and provide the Board with a position paper regarding complaint information disclosure.

#### ***Future State***

The Board has an up-to-date, written policy governing disclosure of complaint-related information that is available for staff training, reference, and public information purposes.

#### ***Improvement Initiative***

Develop a fully documented, written policy governing disclosure of complaint information.

### B. Complaint Closing Letters

#### ***Current State***

When an investigation is closed, a letter is sent to the complainant and to the licensee. When the closure is accomplished without referral for inspection or investigation or, following investigation, without referral for legal action, these letters can lead to higher levels of dissatisfaction with the Board's services than might otherwise occur. If not tactfully and carefully prepared, the letters may be interpreted by the complainant as indicating a lack of Board concern about their allegations, or as questioning the validity of their claims. The closing letters currently prepared by Board staff generally are not as well written or polished as they could be, contributing to higher levels of dissatisfaction than might otherwise exist, and more follow-up calls by complainants to express this dissatisfaction.

#### ***Future State***

Well-composed complaint closing letters are routinely prepared by staff resulting in a higher level of satisfaction among complainants with the actions taken by the Board.

#### ***Improvement Initiative***

Develop a set of improved standard paragraphs that can be incorporated into complaint closing letters, and a series of model complaint closing letters that can be used for staff training and reference purposes.

## Program Administration

### A. Complaint Tracking and Reporting

#### **Current State**

In some areas, statistical data available from the Board's complaint tracking system is incomplete or incorrect. Also, there are inconsistencies in the way that information is coded and input into the system that contributes to problems with the quality of the information that is produced.

#### **Future State**

Accurate and reliable workload and program performance information is readily available and routinely produced from the Board's complaint tracking system, and periodically summarized (e.g., on a monthly or quarterly basis, as well as annually) for staff, members of the Board, oversight authorities, and the public.

#### **Improvement Initiative**

Complete needed complaint tracking system modifications and enhancements. Also, develop a standard format recap of key workload, workflow, backlog, case aging, case disposition, and other key performance metrics.

### B. Customer Satisfaction Surveys

#### **Current State**

The Board recently prepared and began disseminating a customer satisfaction survey. However, there are several basic questions about the Board's Enforcement Program services that are not asked. Input from complainants in these areas is central to understanding consumer satisfaction with the Board's Enforcement Program services.

#### **Future State**

The Dental Board routinely mails out an enhanced customer satisfaction survey with all complaint closing letters. On an annual basis, the Board compiles and publishes a summary of responses to the survey.

#### **Improvement Initiative**

Modify the customer satisfaction survey to obtain input from complainants regarding whether they were treated courteously, whether their complaint was processed in a timely manner, and whether the action taken by the Board was appropriate. Also, develop and implement a process for compiling and summarizing survey responses, and construct an initial set of baseline performance metrics.

### C. Staffing and Supervision

#### **Current State**

See Section I (Complaint Intake and Review).

#### **Future State**

See Section I (Complaint Intake and Review).

#### **Improvement Initiative**

See Section I (Complaint Intake and Review).

### D. Employee Performance Appraisals

#### **Current State**

Investigators rarely receive any type of written annual performance appraisal. One investigator stated that she had received "one or two" in nine years. Annual appraisals of other Sacramento Office Enforcement Program staff were attempted about four years ago, but never completed. The Sacramento Office Enforcement Supervisor re-initiated the annual appraisal process during March 2002 but, again, no appraisals were completed. Finally, due to staff turnover and resource constraints, and because the Chief of Enforcement and Tustin Office Enforcement Supervisor were only recently appointed to their positions, it was decided that appraisals of Enforcement Program staff performance should be deferred at least until late-2003.

#### **Future State**

Formal appraisals of Enforcement Program staff performance are routinely completed on an annual basis as a mechanism for enhancing accountability and improving individual and program performance.

#### **Improvement Initiative**

Complete formal, written performance appraisals for all Enforcement Program staff by not later than December 31, 2003.

### E. Supervisor's Manual

#### **Current State**

The Board does not have a complete, up-to-date set of policies and procedures governing Enforcement Program supervisory roles and responsibilities.

#### **Future State**

A complete, up-to-date Supervisor's Policy and Procedures Manual is available for staff training and reference purposes.

#### **Improvement Initiative**

Update the Dental Board's Enforcement Supervisor's Policy and Procedures Manual

## Community Outreach and Education

### A. Community Presence

#### ***Current State***

Representatives of special interest and advocacy groups have expressed concerns about the limited nature of the Board's consumer and industry outreach and education efforts, and associated relationships to the effectiveness of the Enforcement Program. For example, the Enforcement Program is seen as having little, if any, presence in local communities. As a result, consumers and licensees are less likely to be aware of or report unlawful activities to the Board.

#### ***Future State***

The Board has an active community outreach and education program that includes regular attendance at appropriate community events, print and radio advertising, and other activities. The Board has collaborative relationships with local law enforcement and health service agencies in major metropolitan areas throughout the State to obtain assistance with community outreach and education activities. The program helps consumers become more familiar with the Board's Enforcement Program and specific areas where there tends to be a higher risk of poor quality treatment or misconduct in the profession. Additional staffing resources and expenditure authority are authorized to enable provision of these services.

#### ***Improvement Initiative***

Develop a substantive Community Outreach and Education Program that, at a minimum, provides a meaningful staff presence in higher risk communities through participation in a variety of community and industry events. Develop a proposal to obtain additional staffing resources and expenditure authority needed to implement the program.

### B. Media Coverage

#### ***Current State***

The Board does not generally plan and prepare for coverage by the media of its investigation activity, such as the arrest of an individual engaged in unlicensed activity. In some cases, investigations completed by Board staff, if publicized, could help to encourage reporting of other unlawful activities and deter other persons from committing similar offenses.

#### ***Future State***

The Board prepares media kits, including press releases and other collateral materials, and cultivates relationships with newspaper and television reporters to obtain positive publicity related to its investigations, such as arrests of individuals engaged in unlicensed activity.

#### ***Improvement Initiative***

Develop strategies and collateral materials to obtain and support positive media coverage of the Board's investigative activities.



## **Appendix B**

### **Dental Board Response**

**DENTAL BOARD OF CALIFORNIA**

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August 25, 2003

Honorable Senator Liz Figueroa, Chairperson, Joint Legislative Sunset Review Committee  
Members, Joint Legislative Sunset Review Committee

After a thorough review of the third report of the enforcement monitor, the Members of the Dental Board of California and staff take this opportunity to clarify several areas relating to workload and statistics.

In his opening letter to Director Kathleen Hamilton, Mr. Frank refers to a "backlog" of complaints. There is no backlog of complaints at the Dental Board. The cases described by Mr. Frank comprise the workload of the complaint unit. The term "backlog" has historically been used to describe cases that are unassigned and awaiting action. The Medical Board of California, who performs a similar complaint processing function, clearly does not consider their assigned cases in the complaint unit a backlog. Further, they have advised the Department of Consumer Affairs, in their monthly vacancy and backlog report, that the aging of the various cases in complaints and investigation may increase due to vacancies and staff redirection, however the workloads are not reported as a backlog.

The Dental Board receives complaints and assigns them to a Consumer Service Assistant within 10 days. A complaint is actively processed during the time it remains in the complaint unit (i.e. records and statements are obtained and reviewed by dental consultants, cases are referred immediately to investigation, or are mediated). These assigned cases are considered an on going workload. At one point, the monitor notes that the number of pending complaints in the complaint unit was reduced from 971 at the beginning of Fiscal Year 2002/03 to 593 at the end of June, 2003. The number of complaints assigned to each of the three Consumer Service Analysts within the Boards' complaint unit has historically been approximately 150-200 cases per analyst at any given time. This, of course, fluctuates with the overall number of complaints received and outside factors.

Enforcement management believes that the Board may be at the point where the number of complaints in process have reached a plateau. This is due to the normal flow of new complaints received and demands upon the unit to be more responsive to the consumer, as well as continued redirection of resources to cover staff loss from the recent mandatory personnel reductions.

The complaint unit has been impacted over the last year by extended periods of absence by one analyst due to illness, thereby necessitating coverage by other staff. This comprises one-third of the workforce for that unit. As a result, the overall case aging within the complaint unit may have slightly increased, but no cases are languishing without proper attention. Staff illnesses or vacancies in any agency cause situations that may slow work production. In the Dental Board's case, this most likely has caused the number of pending complaints to increase. However, this should be viewed as a temporary slowdown that can be reversed with full-time staff.

Further, Mr. Frank states that the Board has not developed "specific goals to further reduce the number of pending complaints or investigations." Mr. Frank has been made aware of the implementation of regular case reviews, specific targeting of aged cases, and the adoption of complaint processing timeframes. Additionally, enforcement management has developed timelines for investigation of quality of care complaints, which will be implemented next month.

According to Mr. Frank's own analysis, the Complaint Unit's *Average Days to Complaint Closure was 137 in the first half of the year and 105 the second half.* Enforcement staff have historically maintained that a reasonable time to process a complaint (including gathering records and documents and a comprehensive review by a dental consultant) from receipt to disposition is approximately 120 days, with the "ideal" timeframe being 90 days. Fiscal year statistics demonstrate that the Board is processing complaints within a reasonable timeframe, even with its current staffing constraints

In regard to the average days it takes to formally investigate a complaint assigned to a field investigator, the goal of the Board is to complete a case within 180 days of assignment to formal investigation. In the last six months of last fiscal year, eight investigators statewide completed 71% of their assigned cases in one year or less. Again, systematic case reviews, as well as monthly reports targeting aged cases, has been implemented over the last year to assist management in meeting our goals. The current budget/position reduction plans have resulted in a loss of 4 investigator positions, which will undoubtedly affect our efforts during the remainder of the current fiscal year.

Enclosed is a detailed response to Mr. Frank's status report relative to his summary of recommendations.

To restate our progress in the area of developing performance and service level objectives, the Enforcement Program has instituted manuals, case reviews, mandated timeframes for task completion, an automated investigative activity tracking system and updated

The goals stated above have been incorporated in the various manual revisions provided to staff.

The Board is thankful to Mr. Frank for his valuable input. We are hopeful that the service level provided to the consumers of the State of California can continue to improve, in spite of the budgetary and staffing constraints faced by all State agencies.

  
Alan Kaye, President  
Dental Board of California

  
Cynthia Gatlin  
Executive Officer, Dental Board of California

  
Lynn Thornton  
Chief, Enforcement Program  
Dental Board of California

## RESPONSE TO ENFORCEMENT MONITOR'S "SUMMARY OF RECOMMENDATIONS"

### Summary of Recommendations that have been Partially Implemented

#### PROGRAM MANAGEMENT

**1. Service Level Objectives. Response:** Elapsed time objectives for investigation of quality of care cases are in draft form. Elapsed time objectives for inspection will be developed by the end of the calendar year.

**Dental Board recommendation:** Further analysis needs to be completed before any elapsed time objectives can be developed for investigation of violations other than quality of care. It is further recommended that staff work with the Medical Board for input to determine the feasibility of implementing the remainder of this recommendation.

#### INVESTIGATIONS

**1. Industry Expert Program Guidelines. Response:** Investigation cases at expert review are tracked separately for Northern and Southern California. One staff person in each office is responsible for maintaining a master list and checking with experts at specific increments. The Board requires that the expert complete a review within 30 days. Extensions are granted on larger, more complex cases. The current system is successful in monitoring cases so that they do not languish with an expert for an unacceptable time period. In those cases where the expert cannot complete the review in a timely manner, he or she is instructed to return the case so that another expert can be located.

**Dental Board recommendation: No further action necessary on this item.**

**2. Industry Expert Compensation. Response:** A Budget Change Proposal was submitted on June 4, 2003 to the Department to increase the rates of pay for outside expert consultants for record review and court testimony.

**Dental Board recommendation: Await outcome of BCP**

#### LEGAL ACTIONS AND REMEDIES

**1. Legal Action Case Tracking and Aging. Response:** The computer based tracking system to monitor all of the Board's pending disciplinary cases at the Office of the Attorney general does included monitoring of critical legal milestones (as established by the Office of the Attorney General). These

milestones include, the date the case was referred to the Attorney General's Office, the date an Accusation was filed, the date a hearing was requested, the actual date of the scheduled hearing, and the final decision. Further, the system was modified to include a summary of the nature of the violations, the name of the assigned deputy and investigator, the AG location, and a separate field for the last status date.

This system is updated daily and is used as a mechanism to request reports from the Supervising Deputy Attorneys on cases assigned within their jurisdiction. Further, an additional report was developed which tracks those cases wherein a hearing has not yet been requested by the Attorney General.

This report became necessary after it was discovered that many cases were aging due to a lag in getting a case "on calendar" for an administrative hearing. It should be noted that the Office of Administrative Hearings is scheduling hearings 2-4 months out in Northern California and 7 to 8 months out in Southern California due to budgetary and staffing constraints.

**Dental Board Recommendation: No further action necessary on this item.**

#### PROGRAM ADMINISTRATION

**1. Complaint Tracking System. Response:** A significant amount of staff time is still being devoted to identifying needed improvements in the case tracking system.

**Dental Board Recommendation: This will be an on-going project.**

**2. Consumer Satisfaction Survey:** Effective July 1, 2003, the Board began utilizing a Consumer Satisfaction Survey questionnaire to gauge the level of service to the consumers of dental care.

**Response: Continue to collect survey results and report findings to the full Board on an on-going basis. Utilize results to improve quality of service to consumers on an on-going basis. Review current form for consideration of enforcement monitor's recommendations.**

## SUMMARY OF RECOMMENDATIONS THAT HAVE NOT BEEN IMPLEMENTED

### Dental Board Response:

**Most of the recommendations in this category relate to staffing assessments. Due to the current workload and budgetary constraints, these recommendations must be delayed until the Board has an opportunity to determine if their implementation is feasible.**

### Specific responses:

**Disciplinary Guidelines-** The Board will begin the process of a regulation change to update the current *Disciplinary Guidelines* after January 1, 2004.

**Attorney General and OAH Expenditure Monitoring-** The Attorney General's office is reformatting their billing process as a pilot program in selected offices. Implementation of the new Pro-Law System will greatly enhance the Board's ability to monitor AG expenditures. The new report format has already been received by the Board from those offices involved in the pilot project. Enforcement staff will use these reports as a means to develop a cost tracking system by case by December 31, 2003.

**Complaint Closing Letters-** Due to staffing and managerial constraints, this project will be delayed until January 1, 2004.

**Supervisor's Manual-** An Enforcement Supervisors Manual is in draft form and will be finalized by March 1, 2004.

**Employee Performance Appraisals-** This recommendation will be implemented in increments beginning February 1, 2004 for enforcement staff. Lack of adequate management support staff has caused this recommendation to be deferred.

**Community Events-** Lack of staff has resulted in an indefinite deferral of this recommendation.

**Media Coverage-** The Board has established procedures with the Department's Information Office to provide press releases on an on-going basis. The Department also provides assistance to the Board in responding to media questions.

**Legislation-** The Dental Board will seek legislation to strengthen enforcement efforts. This will include law changes to allow for charging unlicensed practice of dentistry as a felony.